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- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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- WHEN:** July 23, at 9:00 am
- WHERE:** Federal Building, 501 Magazine St.
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New Orleans, LA
- RESERVATIONS:** Federal Information Center
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Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1494

Export Bonus Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is issuing this final rule which establishes regulations governing the payment of bonuses in connection with the export of agricultural commodities under the Export Enhancement Program (EEP). The EEP has previously been administered by the Foreign Agricultural Service (FAS), on behalf of CCC, through the issuance of "EEP Commodity Announcements" (Announcements) and "Invitations for Offers" (Invitations). These regulations are intended to simplify the administration of the EEP by consolidating the general information about the program contained in the various EEP Announcements, while maintaining the system of issuing Invitations for specific EEP initiatives for targeted countries. This final rule also incorporates material required by provisions of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624) (hereinafter referred to as the 1990 Act), enacted on November 28, 1990, which are specifically applicable to the EEP. The EEP will continue to be administered by FAS on behalf of CCC.

EFFECTIVE DATE: July 3, 1991.

FOR FURTHER INFORMATION CONTACT: L.T. McElvain, Director, CCC Operations Division, USDA, FAS, room 4503-S, 1400 Independence Avenue, SW., Washington, DC, 20250-1000, telephone (202) 447-6211.

SUPPLEMENTARY INFORMATION:

Regulatory Requirements

This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major." It has been determined that these program provisions will result in an annual effect on the economy of \$100 million or more.

As required by Executive Order 12291, section 4, it has been determined that the factual conclusions upon which this final rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of persons directly affected by the rule in particular.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

The paperwork requirements which would be imposed by this final rule were contained in the proposed rule and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. The Office of Management and Budget assigned number for those requirements is OMB No. 0551-0028. Public reporting burden for these collections is estimated to average 23 minutes per response, including time for reviewing instructions, searching existing sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0551-0028), Washington, DC 20503.

This program is not subject to the provisions of Executive Order 12372,

which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This final rule includes a Final Regulatory Impact Analysis, as required for a major rule under Executive Order No. 12291. The Department has prepared a more detailed analysis in connection with the final rule, in accordance with Executive Order No. 12291, and has issued a public press release on May 23, 1991 notifying interested parties that it is available for review. Copies of the Final Regulatory Impact Analysis Statement are available upon request to the Planning and Evaluation Staff, Foreign Agricultural Service, USDA, Room 5550-S, 1400 Independence Avenue, SW., Washington, DC 20250-1000, telephone (202) 245-5198.

Background

In the Federal Register of April 25, 1990 (55 FR 17443), CCC proposed the issuance of regulations to replace its previous administrative procedure of issuing Invitations pursuant to the EEP commodity Announcements with a procedure in which Invitations would be issued pursuant to such regulations. The proposed regulations contained provisions which were the same as, or similar to, the provisions previously contained in the various commodity Announcements issued under the EEP. The proposed regulations consolidated the terms and conditions previously contained in the commodity Announcements as well as additional information concerning the operation of the EEP. In the course of this consolidation, some of the information contained in the Announcements was re-stated in a manner which was intended to simplify the material, enhance clarity, eliminate duplication, and facilitate the use of the regulations. CCC also proposed to continue to issue Invitations for specific initiatives under the EEP which will contain additional information concerning the eligible commodity, the targeted (eligible) country or group of countries, the unit of measure, the countries' buying preferences, performance security requirements, allowances for transshipments, and other specific limitations to be imposed on offers submitted to CCC by participating exporters.

Comments on the proposed regulations were to be submitted by June 25, 1990. Eighteen parties submitted comments on the proposal. Comments were received from eight producer associations, four U.S. exporters, two U.S. export trade associations, and one U.S. Government agency, and three separate responses were received from entities associated with a foreign government which is considered a non-subsidizing supplier. These eighteen parties made approximately 88 separate and significant comments regarding either the proposed regulations or the policy issues and the impact of policies involved in administering the EEP. Other comments were made specifically on the content of the Preliminary Regulatory Impact Analysis Statement.

General Comments

Five commenters expressed general support for the EEP but did not comment specifically on the proposed rule. One commenter opposed continuation of the EEP and questioned the issuance of the proposed EEP regulations. Another commenter appreciated the effort made by the proposed rule to increase program accountability. Two commenters were wary of institutionalizing the EEP. One commenter expressed the opinion that the rulemaking process is the proper vehicle for change in the program. Another commenter stated that the proposed rules appeared fair and firm and they should be adopted as they appear. Twelve commenters, in some context, addressed the regulatory provisions of the proposed rule. The majority of the commenters which discussed the regulatory provisions of the proposed rule were in favor of the regulations with suggested changes. Ten commenters made specific suggestions for changes or additions to the rules.

Eight of the commenters addressed, in whole or in part, the Preliminary Regulatory Impact Analysis Statement. The comments made regarding this analysis are addressed in the Final Regulatory Impact Analysis Statement, which is being made publicly available.

Fifteen of the respondents addressed issues involving policy considerations related to the EEP. The objectives of the program are to discourage unfair trade practices by other countries, to increase U.S. agricultural commodity exports, and to encourage other countries exporting agricultural commodities to undertake serious negotiations on agricultural trade problems. Fourteen respondents indicated that the EEP is succeeding in sending a strong message to unfairly subsidizing exporting countries about the seriousness of the

United States in trying to bring about trade policy reform. One commenter expressed that the EEP has had little, or no, effect as a measure to promote trade policy reform. Five respondents encouraged the more aggressive use of the EEP. Five commenters questioned whether the EEP had been an effective tool for achieving its goals. Four commenters indicated that the EEP should focus more on value-added commodities. Three commenters expressed their opinion that additional measures are needed to protect non-subsidizing suppliers from the impact of the EEP.

The comments regarding the policy administration of the EEP were taken into consideration. However, CCC has been given a mandate by Congress to carry out an EEP and many of the important policy decisions concerning implementation of the program have already been made by officials in the executive and legislative branches of government. Furthermore, these general comments regarding EEP policy are not pertinent to a review of the proposed EEP regulations. The objective of the regulations for the operation of the EEP, now found in subpart B of part 1494, is to establish the terms and conditions that will govern the Agreement between an exporter and CCC (Agreement) to provide a CCC bonus in return for the export of an eligible commodity and for the arrival of that eligible commodity in an eligible country.

Specific comments were submitted by a foreign government (a non-subsidizing supplier of agricultural commodities) suggesting that the revised criteria for the EEP, which were published in the Federal Register on November 27, 1989, should be made a part of these regulations. An additional commenter recommended that the "EEP guidelines" be republished for comment, perhaps annually. Section 403(a)(1) of the Agricultural Trade Act of 1978, as amended by section 1531 of the 1990 Act, requires the Secretary of Agriculture to "specify by regulation the criteria used to evaluate and approve proposals for (the EEP)." As a result of this mandate, CCC will publish guidelines for the review of EEP proposals through a separate rulemaking procedure, during which public comments on this subject will be addressed. These guidelines are not applicable to the establishment and operation of an EEP Agreement and, therefore, they will be codified in a separate subpart (subpart A) of part 1494. A subpart A has been reserved in this final rule for that purpose.

One commenter also suggested that new criteria be established to determine if the EEP was achieving its objectives. A determination as to whether the EEP is achieving its objectives will depend upon policy considerations and changing economic conditions and, therefore, it would be inappropriate to specify strict criteria in these regulations for making such a determination.

This commenter, a non-subsidizing supplier, also suggested that measures be included in the regulations to restrict EEP sales in markets where non-subsidizing suppliers have a market share or to more clearly define that market share. The commenter further suggested that CCC should consider a breach of an Agreement to occur when sales by an exporter of U.S. commodities encroach on the "fair market" presence or have more than a minimal impact on sales of a non-subsidizing supplier. The impact on non-subsidizing suppliers is taken into consideration in the review and approval of EEP initiatives, the guidelines for which will be codified in subpart A of part 1494. It would be inappropriate to consider an Agreement to be breached or canceled due to unforeseen impacts on the sales of a non-subsidizing supplier.

Nine of the commenters expressed the opinion that the EEP regulations should be flexible to meet market challenges. These comments regarding flexibility of the EEP are valid, and CCC will maintain this flexibility by continuing to issue Invitations for Offers in connection with initiatives for specific eligible countries, as indicated in § 1494.101. The Invitations contain specific information about buyer's purchasing requirements, such as the quality of the commodity, and can also be structured to fit particular situations in a targeted country or countries. Several control mechanisms in the EEP are left to be spelled out in the Invitation, and the regulations are written in such a manner that they often state "or as contained in the applicable Invitation" to allow CCC the flexibility to adapt to a particular set of circumstances.

Two commenters suggested that an "EEP marketing plan" be announced on an annual basis. The plan would include eligible countries and available quantities targeted for each country. The suggested marketing plan would replace the public press release announcements of initiatives or increased allocations under existing initiatives currently issued by the U.S. Department of Agriculture (USDA). It is acknowledged that an EEP marketing plan of this

nature may make the EEP more transparent; however, such a plan may or may not limit the market reaction to announcements of EEP initiatives or allocations. USDA followed a similar approach in the operation of the Dairy Export Incentive Program (DEIP) and, although the impact on the U.S. dairy market was limited, the reaction of the international market to the marketing plan announcement was far greater than should have been warranted in light of the relatively small volume of DEIP export sales which ultimately resulted. CCC will continue to consider the use of this type of approach on a commodity by commodity basis. However, it has been determined that a general marketing plan approach for the EEP would not be in the best interests of the program at this time. Given the difficulty of predicting import requirements and capabilities for many eligible countries over a year time-frame, it would be necessary to update such a marketing plan on a frequent basis, which would be as disruptive as, or more disruptive than, the procedure of announcing targeted countries and allocations on a case by case basis. The primary consideration in determining whether to use a marketing plan approach should be the effect it would have on the ability of subsidizing foreign competitors to predict and react to the targets established for the EEP. If these competitors are able to take action to prevent U.S. commodities from being competitive as a result of information which they obtain from a marketing plan, then the release of an EEP marketing plan would not further the objectives of the program.

Section-by-Section Analysis of Subpart B

The numbering system of the final rule varies somewhat from that of the proposed rule. Some sections were added, some were deleted and others were reordered. For the purposes of this discussion, the numbering of the final rule will be used, except where otherwise indicated. In addition to changes resulting from comments from interested parties, additional changes have been incorporated into the final rule for the purpose of further clarification. These changes are not of such a substantive nature that they require additional comment from interested parties. Finally, certain provisions required by the 1990 Act have also been included.

Section 1494.101 General Statement

No public comment was received on this section. However, portions of the general statement relating to the

program objectives have been deleted and will be included in subpart A when it is published through a separate rulemaking procedure.

Section 1494.201 Definitions of Terms

Although no public comment was received specifically suggesting such a change, for the purpose of clarity a definition of the Date of Entry has been added to this final rule at § 1494.201(j).

A comment was received regarding the definition of the Date of Export in § 1494.201(k)(4). The commenter questioned CCC's use of the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of an eligible country to determine the date of export when the eligible commodity is shipped by rail or truck from the U.S. The commenter felt that, in commercial practice, the date of export is established by the date of the on-board bill of lading rather than the date of entry and suggested that the same approach be adopted in § 1494.201(k)(4). It is correct that, in cases of ocean shipments, whether by lash-barge, container or vessel, the on-board date of the bill of lading does establish the date of export. However, in the case of rail or truck shipments, the bill of lading stating that the truck or rail car was loaded at an interior U.S. point on a particular date cannot establish a date of export. The provision in § 1494.201(k)(4) was included in the regulations particularly for overland shipments to Mexico and is consistent with the date of export established for such shipments in other CCC programs, such as the Export Credit Guarantee Program (GSM-102). Therefore, it has been determined not to incorporate the suggested change.

A commenter suggested that the provisions regarding "Interim Bid Agreements" be clarified. Upon further review, a determination has been made to delete the provision for an Interim Bid Agreement, which was defined in § 1494.201(v) of the proposed rule and also addressed in other sections of the proposed rule. The Interim Bid Agreement was employed in the EEP to accommodate the purchasing practices of a particular targeted country. Those practices have not changed and, therefore, the mechanism for an Interim Bid Agreement in the EEP can now be deleted.

Although no public comment was received specifically suggesting such a change, for the purpose of clarity a definition of Transshipment has been added to this final rule at § 1494.201(cc).

In accordance with section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)), as amended by section

1531 of the 1990 Act, a definition of U.S. agricultural commodity has been added to this final rule at § 1494.201(gg).

Section 1494.301 Qualification Requirements for Program Participation

No public comment was received on this section. The final rule has been revised to change the type of evidence that an interested person is required to submit to demonstrate the necessary experience for program participation. In the proposed rule, an interested person was required to submit evidence to show experience in buying and selling for export the particular eligible commodity for which such person wished to qualify for program participation. In the final rule, § 1494.301(a)(1) has been revised to permit interested persons to submit evidence to show experience, within the preceding three calendar years, in selling for export such particular eligible commodity or a similar agricultural commodity, as determined by CCC. This change will permit CCC to qualify persons who have exported commodities which are of similar complexity in quality specifications, which have similar end-uses, and which are handled and shipped in a manner similar to that of the commodity for which they wish to qualify as an eligible exporter under the EEP.

The final rule has been revised to restructure the certification statement regarding suspension or debarment, which persons seeking to qualify as an eligible exporter were required to submit pursuant to § 1494.301(a)(7) in the proposed rule, into the provision entitled "Ineligibility for Program Participation" now contained in § 1494.301(f).

Section 1494.401 Performance Security

Various commenters addressed the requirements for the establishment and the release of the performance security for an EEP Agreement, as prescribed in § 1494.401. One respondent felt that CCC should exempt companies from the performance security requirement after they have demonstrated a record of acceptable performance in the EEP. It has been determined that such a measure would expose CCC to undue financial risk in the event that it should become necessary to assess liquidated damages or secure the return of a bonus. If performance security were not established for each Agreement, CCC would have to pursue claims and off-set measures in order to recover its losses. The procedures for processing claims and off-set actions are more complex and burdensome than simply claiming

against performance security. In addition, such a measure would unfairly benefit some exporters that have records of past participation in the EEP in comparison to other exporters that do not have such records and, therefore, would be unable to have the performance security requirements waived. However, an attempt has been made to build some flexibility into the performance security requirements. The regulations state in § 1494.401(c) that the exact amount of the performance security will be specified in the applicable Invitation. This will give CCC the flexibility to review the performance security requirements and set them at levels based upon the estimated liquidated damages that CCC would incur, in the event of a breach of the Agreement, in light of circumstances unique to the Invitation. In addition, a new provision has been added to § 1494.401(c) which will allow exporters to switch from performance security "Option A" to "Option B" after obtaining CCC's approval and increasing the amount of the performance security.

One respondent addressed § 1494.401(e)(2), suggesting that CCC's right to funds under the performance security should be limited to rights arising under the specific EEP Agreement for which the performance security was established. This comment has been accepted and a phrase has been added to § 1494.401(e)(2) limiting CCC's right to draw against the performance security established in connection with a specific Agreement to situations where funds are owed to CCC by the exporter in connection with such Agreement.

Although no public comment was received specifically suggesting such a change, § 1494.401(e)(3) was added to provide that CCC may draw against the performance security in the event that it is about to expire before the exporter has fulfilled its obligations under an Agreement.

Two commenters suggested that a clause be added to § 1494.401(e) providing that, upon CCC's determination to hold the exporter harmless for liquidated damages, or the payment of damages by the exporter, CCC will agree to the cancellation of the performance security. An exporter that chooses "Option A" for the bonus payment opens performance security in an amount sufficient to cover both potential liquidated damages and the repayment of the bonus. In some cases, CCC may determine to hold the exporter harmless for the payment of liquidated damages without having resolved the

issue of whether to require the exporter to return the amount of the bonus payment. Therefore, the suggestion will be adopted to the extent that, if a determination is made to hold an exporter harmless for liquidated damages under a specific EEP Agreement, CCC will agree to the cancellation or reassignment of that portion of the performance security which would pertain to liquidated damages. A new § 1494.401(f)(4) has been added to the final regulations to address this matter.

Although no public comment was received specifically suggesting such a change, in order to provide CCC with the necessary flexibility in the administration of the EEP, provisions to allow CCC to determine that it is no longer in the best interest of the EEP to require an exporter to maintain the performance security have also been included in § 1494.401(f)(1).

Comments were received suggesting that the provisions regarding the entry document required for proof of arrival in the eligible country be revised. One respondent suggested that a certificate showing the quantity of the eligible commodity unloaded may be difficult to obtain quickly in some circumstances and asked that CCC accept an entry certificate as long as the loading weight is shown. It is acknowledged that it is sometimes difficult to obtain entry documents from some eligible countries. Therefore, in order to facilitate the presentation of entry documentation by the exporter to CCC, the forms of allowable entry documentation referenced in § 1494.401(f)(2) have been expanded to include a certification issued by an independent surveyor in the eligible country or a statement from the vessel or shipline. However, it has been determined that the quantity of the eligible commodity discharged in the eligible country is specific information needed in order to determine that all of the commodity for which a bonus was paid or will be paid arrived in the eligible country, taking into account reasonable handling losses and differences in weighing equipment and methods.

Although no public comment was received specifically suggesting such a change, in order to facilitate the timely processing of entry certificates, an additional requirement has been added to § 1494.401(f)(2) of this final rule to provide that entry certificates must either be in English or accompanied by an acceptable translation.

Section 1494.501 Submission of Offers to CCC

One commenter questioned whether the expiration date included in the Invitations, which is referenced in § 1494.501(a), applied to all Invitations or whether expiration dates would be consistent as applied to all commodities and countries. The expiration date for each Invitation is individually set at a date not more than one year from the date of issuance of that Invitation. Invitations are issued as export opportunities develop and, therefore, there is no consistency between the expiration dates of Invitations for different commodities and countries. Furthermore, no consistency is intended or needed.

Although no public comment was received specifically suggesting such a change, in order to facilitate the offer review process, an additional requirement has been added to § 1494.501(c) of this final rule to provide that offers must be submitted in the format prescribed in this subsection.

Although no public comment was received specifically suggesting such a change, in order to clarify that the quantity of the eligible commodity which is eligible for the payment of a bonus is the net weight (less any dockage, if applicable), § 1494.501(c)(7) of this final rule has been reworded to require the eligible exporter to express on a net weight basis the quantity for which it wishes to receive a bonus.

Two respondents suggested that the regulations allow exporters the flexibility to change classes of wheat (except for Durum Wheat) and coastal range for shipments and to make allowance for shifts in delivery period without approval by CCC. This type of flexibility could be reflected by changing the requirements relating to the content of the offers to CCC in § 1494.501(c) to allow for multiple coasts of export, optional classes of wheat, and a stated tolerance for shifts in the delivery period. In considering these comments, a review was performed of the current procedures applied in the price and bonus review of exporters' offers in response to Invitations for wheat and the application and approval process for amendments to existing EEP Agreements to change the class, coastal range and/or delivery period. In order to accommodate a flexible system where the exporter could change the class, coast, and/or delivery period, CCC would have to base its bonus calculations upon the class of wheat, coastal range and delivery period which would result in the lowest cost bonus to

CCC. CCC has allowed some flexibility for multiple classes of wheat, multiple coastal ranges and extended delivery periods in certain EEP Invitations. The language of the final EEP regulations will continue to allow for this limited flexibility in Invitations. However, to subject all bids to this type of least cost bonus restriction may unfairly limit the export of some higher cost classes of wheat such as Hard Red Spring or White Wheat and shipment from some coastal ranges such as the Great Lakes/St. Lawrence River or Pacific Northwest. Such a restriction may be detrimental to the purchasing desires of an eligible buyer and to regional interests supporting the export of certain classes of wheat from specific U.S. ports. Therefore, it has been determined that, due to the impact of lowest cost bonus calculations on the purchasing preferences of eligible buyers, it would not be in the best interest of the EEP to try to accommodate the flexibility suggested for class, coast and delivery period in all EEP Invitations.

Although no public comment was received specifically suggesting such a change, in order to facilitate the price and bonus review process, an additional requirement has been added to § 1494.501(c)(15) of this final rule to provide that an eligible exporter must include in its offer information on applicable credit payment terms and, if permitted in the applicable Invitation, the discharge port for transshipments.

In addition, a new provision has been added at § 1494.501(c)(20)(v) to comply with the requirement in section 401(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5661(a)), as amended by section 1531 of the 1990 Act, that CCC obtain certifications from eligible exporters that there were no corrupt payments or extra sales services, or other items extraneous to the export sale, provided in connection with the export sale.

A new provision is also added at § 1494.501(c)(20)(xi) to comply with the requirement of section 401(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) as amended by Section 1531 of the 1990 Act. Section 1494.501(c)(20)(xi) provides that exporters certify that the agricultural commodity or product to be exported under an EEP Agreement will be a United States agricultural commodity or product thereof, as defined by § 1493.201(gg).

Although no public comment was received specifically suggesting such a change, in order to ensure that CCC only considers offers from eligible exporters which qualify for program participation at the time that such offers are submitted, a new provision has been added at § 1494.501(c)(20)(xii) to require

the eligible exporter to certify that it still meets all of the qualification requirements for program participation and will notify CCC if there is a change of circumstances which should cause it to fail to meet such requirements.

Some respondents suggested that CCC announce daily, after the close of the futures market, or on a weekly basis, a set bonus or subsidy level which would be applicable for a given eligible commodity to all eligible countries. Although this type of subsidy mechanism would be very simple and quite transparent, it would also be self-defeating in that other subsidizing suppliers would be able to readily adjust their subsidies in reaction to the bonus announced by CCC. Therefore, such simplification of the EEP operating procedures would not be in the best interest of the program. Past experience in operation of the EEP shows that exports made in connection with Announced CCC Bonuses have been only marginally successful in remaining competitive with exports of unfairly subsidizing suppliers and gaining U.S. market share in the targeted country. The final rule allows CCC to continue to employ Announced CCC Bonuses where conditions for purchase by a buyer in a specific targeted country necessitate such a system under the EEP. However, adopting a general announced bonus for a particular commodity would deprive CCC of the flexibility to adjust the bonus level to take into account particular country purchasing preferences or differences in transportation off-sets needed to keep U.S. commodities competitive on a landed cost basis with those of unfairly subsidizing suppliers.

A commenter suggested that an exporter not be required to declare the eligible country to which an eligible commodity will be exported until after a certain quantity of such eligible commodity has been awarded to the exporter. However, in order to accomplish the program objective of helping U.S. agricultural commodities remain competitive in targeted markets, the eligible country must be known at the time the offer is considered by CCC.

Section 1494.601 Acceptance of Offers by CCC

One commenter suggested that § 1494.601, Acceptance of Offers by CCC, be used to provide more equity among the classes of wheat exported with the assistance of the EEP. CCC does not control the classes of wheat exported in connection with the EEP. The specifications for the eligible commodity exported are mutually determined between buyer and seller.

Although a buyer may have a traditional preference for a certain class of wheat, other considerations such as price may override these preferences. In the past, when a specific allocation was announced for Durum Wheat to Algeria, this allocation was underutilized due to price considerations and remained largely inactive until the remaining balance was made available to wheat of any class, including Durum Wheat. Therefore, it has been determined that earmarking of allocations for various classes of wheat under an EEP initiative is counterproductive.

One commenter questioned whether the provision for the acceptance of offers for an Announced CCC Bonus contained in § 1494.601(c) provides an exporter with an opportunity to submit exclusive or early bids. This provision states the CCC will accept such offers on a first-come, first-served basis. The Announced CCC Bonus mechanism allows the EEP to facilitate export sales in situations in which the eligible buyer will not permit a bid by an exporter to be contingent upon CCC approval of an EEP bonus. CCC recognizes that the acceptance of offers for an Announced CCC Bonus on a first-come, first-served basis could allow the exporter to sell to the buyer an amount of the eligible commodity which is equal to the buyer's entire tender amount. Under circumstances where CCC may question if sufficient competition existed for a sale, CCC reserves the right under § 1494.601(h) to reject any offers received. Therefore, these provisions have not been changed in the final rule in response to the comment.

Section 1494.701 Payment of Bonus

A commenter requested that a change be made in the description of the form of bonus payment in § 1494.701(a). CCC had proposed that "the bonus may be paid in the form of CCC certificates or in any other form which CCC determines appropriate." The respondent suggested that this paragraph be revised to read as follows: "The bonus may be paid in the form of CCC certificates or in any other form specified in the Invitation which CCC determines to be appropriate." The final rule reflects this change.

Two respondents asked that, in determining whether a sufficient quantity of the eligible commodity has been entered into the eligible country to satisfy the quantity condition of the EEP Agreement, CCC make such determination on the basis of gross weight (including dockage), in order to better follow commercial practice, rather than net weight (excluding dockage), as specified in § 1494.701(b). It

is correct that normal U.S. commercial practice is to satisfy sales contracts on the basis of gross weight exported. However, for the reasons set forth below, this suggested change will not be adopted.

Dockage is a controllable factor in grain export shipments, and grain export elevator operators often routinely adjust the amount of dockage in a shiplot to a tenth of a percent. In export shipments of grain (wheat, barley, sorghum), dockage normally is less than one percent of weight. The dockage amount is certified by the Federal Grains Inspection Service. Other than in circumstances where there is a set allowable dockage level set by contract, dockage is normally weight deductible to the buyer. This means that the buyer only pays for the net weight, plus the set allowable dockage, if any, rather than for the gross weight. To determine net weight for the purposes of the EEP, the reported dockage is deducted from the total weight of the shipment, so that a subsidy is paid only on the net weight exported, with no allowable dockage level.

To fulfill its obligations to CCC, an exporter must export and enter into the eligible country a quantity of the eligible commodity that is within plus or minus five percent, on a net weight basis, of the quantity specified in the Agreement. Some exporters have previously expressed their concerns about CCC's use of net weight in determining whether an exporter has fulfilled its obligations to CCC under an Agreement when the exporter may have otherwise met its obligations to the buyer on the basis of gross weight. Other exporters have agreed with CCC's determination that it should pay bonuses on the basis of the net weight exported, after the removal of dockage, because the bonus should not be paid on dockage which has no intrinsic value.

Because the upward shipping tolerance of five percent is also applied on a net weight basis, this means that the exporter can ship up to 105 percent of the quantity specified in the Agreement (on a net weight basis) and still receive a bonus under the EEP for the entire net amount. Applying the upward tolerance to the net weight benefits the exporter. If CCC were to change the lower tolerance limit under EEP to apply to gross weight rather than net weight, then the upward tolerance limit should also be changed to apply to gross weight. Exporters have also previously disagreed with this approach.

To comply with the requirement to fulfill the EEP Agreement on the basis of net weight, the exporter has the ability to: Bid a lower quantity in the EEP offer

to adjust for anticipated dockage; determine the vessel size so that, even with the inclusion of dockage, a sufficient quantity can be shipped to fulfill the Agreement on a net weight basis; control the dockage during loading; or place the outstanding balance to be shipped on another vessel.

An additional comment was made by one of the respondents relating to this discussion of gross versus net weight. The commenter suggested that some buyers prefer a 10 percent shipping tolerance and have no difficulty in securing the same from the European Economic Community. The respondent asked why the EEP should permit only a five percent shipping tolerance. This approach has been adopted in administering the EEP because it is necessary to place fairly stringent restraints upon the levels of program awards. Additionally, the five percent shipping tolerance takes into account normal commercial practice for the non-bulk commodities, such as wheat flour, rice, table eggs and frozen poultry. For commercial transactions dealing with these and similar commodities, a plus or minus 10 percent shipping tolerance is less common. The adoption of various shipping tolerances for different commodities was considered, but, for the sake of simplicity in administering the EEP, it has been deemed desirable to maintain the same shipping tolerance for all eligible commodities.

A commenter questioned the lack of consistency between § 1494.701(b) and § 1494.401(f)(2) with regard to the certifications of quantity of the eligible commodity at export and the entry documentation relating to the quantity discharged in the eligible country. It has been recognized that there may be discrepancies between the quantities stated in the export and entry documentation. In particular, the quantity reported in entry documentation for bulk handled commodities may be affected by handling losses and weighing errors in many eligible countries due to less sophisticated discharge equipment and weigh scales. Therefore, § 1494.701(b) has been revised to state that the quantity of the eligible commodity established by the export documentation will be used in determining the quantity on which the bonus will be paid, unless, in the determination of CCC, there is evidence to suggest that there was loss, destruction or diversion of the eligible commodity prior to its entry into the eligible country.

Finally in recognition of the delays which exporters may experience in obtaining entry documentation, the

length of time permitted to submit entry documentation to CCC without penalty has been extended from 30 days to 60 days, as referenced in §§ 1494.701 (d) and (g).

Section 1494.801 Enforcement and Termination of Agreements With CCC

Four commenters suggested that the provisions of § 1494.801, dealing with the enforcement and termination of EEP Agreements, be revised to allow the exporter to receive or retain the bonus in situations where it was unable to fulfill the EEP Agreement due to force majeure. Generally, if a force majeure provision is included in a contract, then neither party to the contract will be held liable for a failure or delay in complying with its responsibilities under the contract which resulted from a condition that is beyond the control or without the fault or negligence of the party to the contract seeking excuse from liability. A force majeure provision contained in a contract may be triggered by such conditions as acts of God, strikes, embargoes, fires, floods, epidemics, quarantines, severe weather, or war. The respondents commented that, when the exporter has had no control over the disposition of the eligible commodity as a result of a situation resulting from force majeure, CCC should allow the exporter to receive or retain a bonus under the EEP. To adopt the commenters' suggestion would place CCC in the position of an insurer for the value of the bonus. Private insurance for the bonus value may be available to the exporter for force majeure contingencies. Furthermore, it would be inappropriate for CCC to pay a bonus if the eligible commodity failed to reach the eligible country, for whatever reason, because the program objective of countering unfair foreign competition in the eligible country would not have been furthered. It has, therefore, been determined that the exporter will not have the right to receive or retain a bonus even if its failure to fulfill the Agreement was due to conditions of force majeure.

Section 1494.801(d) has been revised to replace the provisions for relief from liability for liquidated damages with a hold harmless provision. Under this provision CCC will hold an exporter harmless for liquidated damages: (1) If the exporter's failure to perform was due to causes solely without the exporter's fault or negligence and the exporter had taken the necessary action to enable it to export the required quantity of the eligible commodity and enter it into the eligible country; or (2) if the eligible commodity was lost or

destroyed after it had been placed on board the export carrier.

A new provision entitled "Fraud, Scheme or Device" has been added at § 1494.801(e) in accordance with section 402(b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(b)), as amended by section 1531 of the 1990 Act.

One commenter recommended that the exporter and the eligible buyer be given the flexibility to negotiate directly any amendment to the contract terms, without approval by CCC and with the exporter required only to notify CCC of such amendments for record keeping purposes. Except for the case of an Announced CCC Bonus, the bonus for each Agreement is awarded competitively and is dependent upon the specifications of quality (i.e., class), export coastal range, and delivery period stated in that particular Agreement. If these conditions change, CCC should have the right to determine if a bonus reduction is warranted in light of the new conditions. Therefore, this recommendation has not been adopted. However, in the final rule, § 1494.801(i) has been expanded to provide further detail concerning the procedure for the amendment of Agreements.

Section 1494.901 Dispute Resolution and Appeals

No public comment was received on this section. However, in the final rule, § 1494.901(b)(3) was revised to allow the General Sales Manager sixty days to schedule an administrative hearing of an appeal and sixty days to make a final decision on the appeal. The proposed rule had allowed thirty days for these two time periods; upon further review, it has been determined that thirty days was an insufficient amount of time.

Section 1494.1001 Miscellaneous Provisions

No public comment was received on this section. Section 1494.1001(b) was revised in the final rule to comply with the provisions of section 402(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(a)), as amended by section 1531 of the 1990 Act. Section 1494.1001(c) was added to comply with section 401(b) of the Agricultural Trade Act of 1978 (7 U.S.C. 5661(b)), as amended by section 1531 of the 1990 Act.

List of Subjects in 7 CFR Part 1494

Administrative practice and procedure, Agricultural commodities, Exports, Reporting and recordkeeping requirements, Governments contracts.

Accordingly, 7 CFR chapter XIV is amended by adding a new part 1494 to read as follows:

PART 1494—EXPORT BONUS PROGRAMS

Subpart A—[Reserved]

Subpart B—Export Enhancement Program Operations

Sec.

- 1494.101 General statement.
- 1494.201 Definitions of terms.
- 1494.301 Qualification requirements for program participation.
- 1494.401 Performance security.
- 1494.501 Submission of offers to CCC.
- 1494.601 Acceptance of offers by CCC.
- 1494.701 Payment of bonus.
- 1494.801 Enforcement and termination of agreements with CCC.
- 1494.901 Dispute resolution and appeals.
- 1494.1001 Miscellaneous provisions.

Authority: 15 U.S.C. 714c; 7 U.S.C. 5602, 5651, 5661, 5662, 5676.

Subpart A—[Reserved]

Subpart B—Export Enhancement Program Operations

§ 1494.101 General statement.

This subpart contains the regulations governing the operation of the Export Enhancement Program (EEP) of the Commodity Credit Corporation (CCC). CCC will, from time to time, announce, through public press release, initiatives to facilitate the export of U.S. agricultural commodities to targeted markets. The public press release, which will contain the name of a person for interested parties to contact, will be followed by the issuance of an Invitation for Offers (Invitation). Invitations will be issued pursuant to this subpart by the General Sales Manager (GSM) and will specify the eligible country(ies) (the targeted market), the unit of measure, the eligible commodity, the maximum quantity of the eligible commodity eligible for a CCC bonus, the quality specifications of the eligible commodity (including possible restrictions on type, kind, grade and/or class or other quality specifications), the eligible buyer(s), the method and rate for determining liquidated damages and performance security requirements, and any other terms and conditions peculiar to that Invitation. Invitations may be one of the following two types: Those inviting exporters which have a sales contract with an eligible buyer to submit a competitive offer for a CCC Bonus; and those inviting exporters which have a sales contract with an eligible buyer to apply for an Announced CCC Bonus. After an interested person has qualified to submit an offer for an eligible commodity, the eligible exporter may submit an offer to CCC in response to an Invitation. Such offer must contain the

information required by this subpart and any additional information required by the applicable Invitation. The exporter's offer will include either the Announced CCC Bonus, if applicable, or an amount in dollars and cents for a bonus deemed necessary by the exporter to make a commercial sale of the eligible commodity for export to the eligible country competitive with export sales of the commodity by other exporting countries to buyers in the eligible country. If the exporter has furnished the required performance security and the offer is acceptable to CCC, then CCC will notify the exporter that its offer has been accepted. CCC and the exporter will enter into an Agreement in which CCC will agree to pay the bonus to the exporter in return for the exporter's submission of proof that the eligible commodity has been exported from the United States and entered into the eligible country, in accordance with the terms and conditions of the Agreement.

§ 1494.201 Definitions of terms.

Terms used in this subpart, Invitations issued pursuant to this subpart, and any documents pertaining to the EEP shall have the following meaning, unless otherwise specified in such Invitations or documents:

(a) *Agreement or EEP Agreement*—The Agreement entered into between CCC and the exporter consisting of:

- (1) The terms and conditions of this subpart;
- (2) The terms and conditions of the applicable Invitation;
- (3) The exporter's offer;
- (4) CCC's acceptance of the exporter's offer; and

(5) The public press release for the Announced CCC Bonus in effect at the time of the offer, if applicable.

(b) *Announced CCC bonus*—A CCC bonus announced by CCC by public press release in connection with an Invitation which specifies that the CCC bonus amount will be pre-determined and announced by CCC.

(c) *ASCS*—The Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(d) *Bonus value*—The CCC bonus multiplied by the quantity of the eligible commodity exported pursuant to an Agreement, provided that the eligible commodity enters into the eligible country. (The bonus value is paid to the exporter in CCC certificates or other form of payment.)

(e) *Business day*—Days during which employees of the U.S. Department of Agriculture in Washington, DC or in Kansas City, Missouri, as applicable depending upon the office to which a

submission is to be made, are on official duty during normal business hours.

(f) *CCC*—The Commodity Credit Corporation, U.S. Department of Agriculture.

(g) *CCC bonus*—A dollar and cents amount, established through CCC's acceptance of the exporter's offer for such bonus amount, to be paid to the exporter for each unit of the eligible commodity exported pursuant to an Agreement, provided that the eligible commodity enters into the eligible country.

(h) *CCC Certificate*—The CCC Commodity Certificate or Certificates issued by CCC that may be transferred or exchanged for a CCC-owned commodity pursuant to CCC's regulations on Commodity Certificates, In Kind Payments, and Other Forms of Payment, currently codified at 7 CFR part 1470.

(i) *CCC Operations Division (CCCOD)*—The CCC Operations Division, FAS, U.S. Department of Agriculture.

(j) *Date of entry*—Either the date on the certificate of entry specified in § 1494.401(f)(2) indicating that the eligible commodity entered the eligible country on that date or the date that an entry document was issued by a customs port authority or other government official, whichever is later.

(k) *Date of export*—One of the following dates, depending upon the method of shipment:

(1) The on-board date shown on the export carrier's bill of lading, when the eligible commodity is shipped from the U.S. without being transshipped through a Canadian port;

(2) The on-board date at the Canadian port shown on the export carrier's bill of lading, when the eligible commodity is shipped from a Canadian transshipment port on the St. Lawrence River, provided its identity had been preserved until shipped from Canada;

(3) The on-board date shown on the export carrier's through bill of lading, when the eligible commodity is loaded to a lash barge for shipment from the U.S.; or

(4) The date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the eligible country, when the eligible commodity is shipped by rail or truck from the U.S.

(l) *Date of sale*—The earliest date the exporter has knowledge that a sales contract, as defined in paragraph (bb) of this section, exists with an eligible buyer.

(m) *Director*—The Director, Kansas City Commodity Office, ASCS, U.S.

Department of Agriculture, or the Director's designee.

(n) *Eligible Buyer*—Unless otherwise specified in the Invitation, a buyer, located in the eligible country, that has entered, or will enter, into a sales contract with an exporter. (The applicable Invitation may limit the eligible buyer to one or more particular buyers in an eligible country.)

(o) *Eligible country*—The country or countries, as specified in an Invitation, which will be the only country or countries into which an exported eligible commodity must ultimately be entered in order for the exporter to earn a bonus from CCC under that Invitation.

(p) *Eligible commodity*—The U.S. agricultural commodity specified as eligible for export under the applicable Invitation, which is of the kind, type, grade and/or class of commodity specified in the applicable Invitation. (If the eligible commodity is grain, it must meet the definition applicable for that grain under the U.S. Grain Standards Act and the regulations issued thereunder.)

(q) *Eligible exporter*—A person that has been notified by CCC that such person has been determined to be qualified to submit offers for consideration by CCC in response to Invitations for a particular eligible commodity.

(r) *Export or exported*—The shipment of the eligible commodity from the United States or from the Canadian transshipment port, as permitted by this subpart, destined for the eligible country.

(s) *Exporter*—An eligible exporter that enters into an Agreement with CCC under this subpart.

(t) *Export carrier*—The carrier on which the eligible commodity is shipped under the Agreement to the eligible country or to a port in a nearby country, if transshipments other than through Canada are allowed by the applicable Invitation. ("Export carrier" may mean an ocean vessel and, on Canadian transshipments, will mean the ocean vessel loaded at the Canadian transshipment port; or, on overland shipments, a railcar or truck; or a container or lash barge loaded with the eligible commodity for which a through on-board bill of lading is issued for shipment to the eligible country, provided that the loaded container or lash barge is subsequently lifted aboard an ocean vessel.)

(u) *FAS*—The Foreign Agricultural Service, U.S. Department of Agriculture.

(v) *GSM*—The General Sales Manager, FAS, U.S. Department of Agriculture, acting in the capacity of

Vice President, CCC, or the GSM's designee.

(w) *Invitation*—The Invitation for Offers issued by CCC pursuant to this subpart, generally specifying the eligible country, the eligible commodity, the maximum quantity of the eligible commodity eligible for a CCC bonus, the quality specifications of the eligible commodity, the eligible buyer(s), the method and rate for determining liquidated damages and performance security requirements, allowances for transshipments, and any other terms and conditions particular to that Invitation. (If the Invitation contains terms or conditions that are inconsistent with this subpart, the terms and conditions of the Invitation will prevail for the purposes of Agreements entered into pursuant to such Invitation.)

(x) *Notice to exporters—EEP Contacts*—A notice issued by FAS by public press release which contains specific addresses; telephone, facsimile and telex numbers; and contacts within FAS and ASCS to obtain further information concerning qualification as an eligible exporter, the submission of offers in response to Invitations, amendments to Agreements, requests for bonus payments, the submission of export and entry documentation, and other matters related to the EEP.

(y) *Official Inspection Certificate*—A valid official export inspection or other quality analysis certificate, as specified in the applicable Invitation.

(z) *Official weight certificate*—A valid official export weight or other quantity certificate, as specified in the applicable Invitation.

(aa) *Person*—An individual, partnership, corporation, association or other legal entity.

(bb) *Sales contract*—The sales contract entered into between an eligible exporter and an eligible buyer which sets forth the terms and conditions of a sale of the eligible commodity from the eligible exporter to the buyer. (Written evidence of sale may be in the form of a signed sales contract, an offer and acceptance between parties, or other documentary evidence of sale. The written evidence of sale for the purposes of the EEP must, at a minimum, document the following information: the eligible commodity, quantity, quality specifications, delivery terms (FOB, C&F, etc.) to the eligible country, delivery period, unit price, payment terms, date of sale, and evidence of agreement between buyer and seller. A sales contract with an intervening purchaser or an affiliate or subsidiary of the eligible exporter is not

an eligible sales contract for the purpose of this subpart.)

(cc) *Transshipment*—The entry of the eligible commodity into a country other than the eligible country which occurs prior to the subsequent entry of the eligible commodity into the eligible country.

(dd) *Time*—All references to time shall refer to local time in Washington, DC.

(ee) *Unit of measure*—The unit of measure for the eligible commodity, as specified in the applicable Invitation.

(ff) *United States or U.S.*—All of the 50 States, the District of Columbia, and the territories and possessions of the United States.

(gg) *U.S. Agricultural Commodity*—(1) With respect to any agricultural commodity other than a product of an agricultural commodity, an agricultural commodity entirely produced in the United States; and (2) with respect to a product of an agricultural commodity:

- (i) A product all of the agricultural components of which are entirely produced in the United States; or
- (ii) Any other product the Secretary may designate that contains any agricultural component that is not entirely produced in the United States if:

(A) Such component is an added, de minimus component,

(B) Such component is not commercially produced in the United States, and

(C) There is no acceptable substitute for such component that is commercially produced in the United States.

(For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters [including the territorial sea] of a foreign country.)

§ 1494.301 Qualification requirements for program participation.

Before CCC will consider an offer from an interested person in response to an Invitation under the EEP, such person must qualify as an eligible exporter specifically for the eligible commodity for which the interested person wishes to submit an offer. The interested person must qualify as an eligible exporter for an eligible commodity in accordance with the procedures set forth below.

(a) *Submission of documentation*. An interested person that wishes to qualify as an eligible exporter to submit offers with respect to a particular eligible commodity must furnish the following information or documentation to CCC at the address referenced in the Notice to Exporters—EEP Contacts:

(1) Evidence to show that the interested person has had experience, within the preceding three calendar years, in selling for export such particular eligible commodity or an agricultural commodity which CCC has determined to be similar to the eligible commodity;

(2) The address of the interested person's office and the name and address of an agent in the U.S. for the service of process;

(3) The legal form of doing business of the interested person, e.g., sole proprietorship, partnership, corporation, etc.;

(4) The place of incorporation of the interested person, if the interested person is a corporation;

(5) The name and address of an office(s) of the interested person within the U.S., if the interested person is a foreign corporation or other foreign entity; and

(6) A certified statement describing the interested person's participation, if any, during the past three years in U.S. Government programs, contracts or agreements.

(b) *Previous qualification*. If an interested person has already qualified as an eligible exporter to submit offers for a specific eligible commodity and wishes to qualify as an eligible exporter for other eligible commodities, the interested person need only provide the following to CCC at the address referenced in the Notice to Exporters—EEP Contacts:

(1) The information or documentation required in subparagraphs (a)(1) and (a)(6) of this section; and

(2) A certification that the information previously provided pursuant to paragraph (a) of this section has not changed. If the interested person is unable to provide such certification, such person must comply with the procedure in paragraph (a) of this section.

(c) *Necessity to qualify*. An interested person may not submit an offer in response to an Invitation for a particular eligible commodity, and CCC will not consider any such offer from an interested person, until CCC has notified the interested person that such person has qualified as an eligible exporter for that particular eligible commodity.

(d) *Additional submissions*. CCC will promptly notify interested persons that have submitted information required by this section whether they have qualified to have their offers considered. Any person failing to qualify will be notified of the basis of CCC's decision and will be given an opportunity to provide additional information for consideration by CCC.

(e) *Previous performance*. CCC may request additional information with respect to the person's previous performance under any U.S. Government programs or contracts or agreements with the U.S. Government during the past three years. Persons with a history of unsatisfactory participation in such programs or performance of such contracts or agreements will be ineligible to participate in the EEP, unless CCC determines that permitting the interested person to participate would be in the best interests of the program.

(f) *Ineligibility for program participation*. A person will be ineligible to qualify for participation in the EEP if such person:

(1) has been debarred or suspended from contacting with or participating in any program administered by a U.S. Government agency;

(2) is controlled or can be controlled in whole or in part, by any individuals or entities debarred or suspended from contracting with or participating in programs administered by any U.S. Government agency; or

(3) employs any individuals debarred or suspended from contracting with or participating in programs administered by any agency of the U.S. Government.

(g) *Removal from qualified status*. An eligible exporter's qualification to submit offers for a particular eligible commodity will depend upon the continued accuracy of the information provided by the eligible exporter pursuant to this section. If this information changes or if CCC learns of other information indicating that an eligible person's continued qualification would no longer be in the best interests of the EEP, CCC may notify the eligible exporter that it is no longer qualified to submit offers for any or all eligible commodities.

§ 1494.401 Performance security.

(a) *Requirement to establish performance security*. Prior to the submission of an offer to CCC in response to an Invitation, an eligible exporter must establish performance security, in a form which is acceptable to CCC, in order to guarantee the eligible exporter's faithful performance of the Agreement. If CCC enters into an Agreement with the eligible exporter, this performance security must remain in effect until its cancellation or reduction is authorized by CCC pursuant to paragraph (f) of this section. An offer made by an eligible exporter will not be considered if proof of the establishment of the performance security is not made available to CCC by 3 p.m. on the date

for which the offer is submitted for consideration.

(b) *Form of performance security.* The performance security must be acceptable to CCC and may be an irrevocable standby letter of credit, a bond, or a certified or cashier's check. If a standby letter of credit is furnished as performance security, the opening bank may be a U.S. bank or a foreign bank. If the standby letter of credit is opened by a foreign bank, it must be 100 percent confirmed by a U.S. bank. If a bond is furnished as performance security, the surety(ies) must be among those appearing on the list of approved sureties maintained by the U.S. Department of the Treasury. If a cashier's or certified check is furnished as performance security, the bank issuing the cashier's or certified check must be a U.S. bank.

(c) *Amount of performance security.* The amount of the performance security to be furnished to CCC in response to a particular Invitation will depend upon whether the eligible exporter intends to select "Option A" or "Option B" for the timing of the bonus payment. If the eligible exporter furnishes performance security under "Option A" of the applicable Invitation, the eligible exporter may request payment of the bonus after export of the eligible commodity but before entry of the commodity into the eligible country. If the eligible exporter furnishes performance security under "Option B" of the applicable Invitation, the eligible exporter may request payment of the bonus only after the exported eligible commodity has entered into the eligible country. The applicable Invitation will specify the exact amount of performance security for the eligible commodity required under either "Option A" or "Option B" and the method and rate for determining liquidated damages. After the exporter and CCC enter into an Agreement, the exporter may request CCC to change the performance security option for an entire Agreement from "Option B" to "Option A" and, if CCC agrees to this change, the exporter will increase the performance security amount to the level required by the applicable Invitation for "Option A".

(d) *Additional security.* The exporter shall promptly furnish such additional security as CCC may determine is necessary to protect CCC under an Agreement if the surety(ies) or obligating bank:

- (1) Becomes unacceptable to the U.S. Government or CCC; and/or
- (2) Fails to furnish reports on its financial condition as required by the U.S. Government or CCC.

(e) *Right to funds under the performance security.* If CCC enters into an Agreement with an exporter under the EEP, CCC will have the right to funds from the performance security established by the exporter for such Agreement to recover:

(1) The amount of any bonus paid to the exporter under the Agreement if the exporter fails to perform in accordance with such Agreement;

(2) Any funds owed by the exporter to CCC related to the specific EEP Agreement for which the performance security was established, including those for liquidated damages, discounts for late performance, overpayments made by CCC, storage charges, or other damages or charges as determined by CCC; and/or

(3) Any amounts or funds that could be owed by the exporter to CCC in accordance with subparagraphs (e) (1) and (2) of this section for unfulfilled obligations under the Agreement if the performance security should expire prior to the exporter's fulfillment of these obligations. Should the exporter fulfill these obligations, in accordance with the Agreement, after CCC has drawn upon the performance security, CCC will return the funds drawn to the exporter or other appropriate party, as determined by CCC. CCC may return the performance security if it determines that the exporter is not liable for any damages incurred by CCC as a result of the exporter's failure to fulfill its obligations under the Agreement and that the exporter will not retain any bonus payment which was not earned.

(f) *Cancellation or reduction of performance security.* (1) CCC will agree, upon request by the exporter, to a cancellation of the performance security established for an Agreement when CCC determines, on the basis of evidence provided by the exporter or other evidence available to CCC, that:

- (i) The exporter has fully performed under the Agreement;
- (ii) The exporter has fully compensated CCC for all costs incurred or damages suffered by CCC, unless CCC has determined to hold the exporter harmless for such damages pursuant to § 1494.801(d) as a result of the exporter's nonperformance of the Agreement; or
- (iii) It is no longer in the best interest of the EEP to require the exporter to maintain the performance security, and the exporter submits to CCC a written statement agreeing that all other terms and conditions of the Agreement will remain unchanged pending final resolution of the exporter's liabilities to CCC.

(2) To support a request for the cancellation of performance security furnished in connection with an Agreement, the exporter must provide to CCC evidence of the export of the eligible commodity as provided by § 1494.701(c), and the entry of the eligible commodity into the eligible country or countries. The entry certification must be in English or accompanied by a certified or other translation acceptable to CCC. To show entry of the eligible commodity into the eligible country, the exporter must furnish to CCC an original certification signed by a duly authorized customs or port official of the eligible country, by the eligible buyer, by an agent or representative of the vessel or shipline which delivered the eligible commodity to the eligible country, or by a private surveyor in the target country or other documentation deemed acceptable by the GSM showing:

- (i) That the eligible commodity entered the eligible country;
- (ii) The identification of the export carrier;
- (iii) The quantity of the eligible commodity unloaded;
- (iv) The kind, type, grade and/or class of the eligible commodity; and
- (v) The date(s) and place(s) of unloading of the eligible commodity in the eligible country.

(3) If the exporter makes multiple shipments against a sales contract with an eligible buyer, CCC may agree to a proportional reduction in the amount of the required performance security when the exporter has furnished evidence that the exporter has performed under the Agreement with respect to a particular shipment.

(4) Upon the payment of liquidated damages by an exporter to CCC under a specific Agreement or the determination by CCC, pursuant to § 1494.801(d), to hold the exporter harmless for the payment of liquidated damages owed to CCC under a specific Agreement, CCC will allow the exporter to cancel or reassign that portion of the performance security opened for such specific Agreement that would relate to the value of the liquidated damages.

§ 1494.501 Submission of offers to CCC.

(a) *Consideration of offers.* Unless otherwise specified in the Invitation, CCC will consider offers on a daily basis from the date of issuance of the Invitation until such time that CCC announces that offers will no longer be accepted under the Invitation, the total quantity of the eligible commodity announced in the Invitation has been awarded, or the Invitation has expired

as indicated by the expiration date shown in the Invitation.

(1) Prior to the submission of an offer to CCC, the eligible exporter must have entered into a sales contract, as defined in § 1494.201(bb), with an eligible buyer for the export sale and the delivery of the eligible commodity to the eligible country.

(2) The date of sale of the eligible exporter's sales contract with an eligible buyer must be after the issuance date of the applicable Invitation.

(3) The sales contract between the eligible exporter and an eligible buyer may be conditioned upon the eligible exporter's entering into an Agreement with CCC under the EEP for the payment of a bonus.

(4) CCC will not be responsible to any person for any loss caused by the failure of the eligible exporter to obtain a CCC bonus.

(5) The eligible exporter must promptly notify CCC in writing of any amendment to the sales contract with an eligible buyer.

(b) *Submission of offers.* Eligible exporters must submit offers, or modifications or withdrawals thereof, to the address, telephone, telex or facsimile numbers specified in the Notice to Exporters—Contacts for EEP. Telephonic offers must be confirmed in writing immediately thereafter by telex or facsimile. If a telephonic offer is not confirmed in writing by 9 a.m. on the next business day, the offer will not be considered. The date and time affixed to submissions will be as determined by CCC.

(c) *Content of offers.* Offers to CCC for a CCC bonus under the EEP must contain the information shown below in the same numerical order as shown below. CCC reserves the right to reject any offer that so materially departs from this prescribed format that its consideration would hinder the offer review process. The applicable Invitation may require the submission of further information necessary for the consideration of an offer.

(1) The use of the numerical designation assigned to the applicable Invitation, which shall signify that the offer is submitted subject to all the terms and conditions of this subpart and the Invitation in response to which the offer is being submitted for consideration by CCC.

(2) The date and time for which the offer is submitted for consideration. The time shall be stated as "after 3 p.m." For example, the information required by paragraphs (c)(1) and (c)(2) of this section could be stated as follows: "Invitation No. GSM-500-1, Revision

No. X, For Consideration After 3 p.m. on August 1, 1991."

(3) The full business name and address of the eligible exporter making the offer.

(4) The name and title of the individual signing the offer.

(5) The telephone number and telex or facsimile number of the eligible exporter submitting the offer.

(6) The CCC bonus in dollar and cents requested by the eligible exporter for each unit of measure of the eligible commodity to be exported to the eligible country. The offer shall contain only one CCC bonus. In offers submitted in response to an Invitation in which CCC has announced the bonus amount, the eligible exporter shall state the dollar and cents amount of the Announced CCC Bonus.

(7) The quantity, on a net weight basis, (less any dockage, if applicable) of the eligible commodity for which the eligible exporter wishes to receive a CCC bonus pursuant to an EEP Agreement. This quantity shall be exclusive of tolerances and expressed in the unit of measure specified in the applicable Invitation. This quantity may be less than the sales contract quantity.

(8) The U.S. coast of export. The Invitation may require the eligible exporter to indicate: The coasts of export if more than one coast of export is allowed for an offer; the Canadian port if the eligible commodity is to be transshipped through a Canadian port on the St. Lawrence River; or the U.S. city and state from which the shipments will cross the border into the eligible country if the eligible commodity is to be shipped by rail or truck.

(9) The quality of the eligible commodity to be exported to the eligible buyer, if required by the applicable Invitation, including any additional quality specifications not found in the Invitation but included in the tender specifications by the eligible buyer or the sales contract with the eligible buyer. The Invitation may limit an offer to one or more quality designations for the eligible commodity.

(10) The names of the eligible buyer and the eligible country. Unless otherwise provided for in the applicable Invitation, an offer shall contain only one eligible buyer and one eligible country. The Invitation may also provide that the eligible buyer need not necessarily be located in the eligible country.

(11) The date of sale of the sales contract with the eligible buyer.

(12) The number assigned by the eligible exporter to the sales contract.

(13) The quantity of the eligible commodity specified in the sales

contract, expressed in the unit of measure specified in the applicable Invitation.

(14) The sales contract loading tolerance, if any, expressed in a percentage.

(15) The sales contract unit price, delivery terms (e.g., FOB, C&F, etc.); the nature of any arrangements or understandings of the eligible exporter and any other person that would affect the sales contract, including but not limited to arrangements or understandings concerning commissions, rebates, and other payments if applicable; credit payment terms (e.g., GSM-102, GSM-103, or other credit arrangements); and, if required by the applicable Invitation, the discharge port. The possible credit payment terms referenced in an offer are for CCC's information only and are not to be construed as a contingency for consideration or acceptance. The eligible exporter is fully responsible for the arrangement of such payment terms independently from the EEP offer and CCC bears no responsibility if such credit payment terms cannot be secured.

(16) The delivery period specified in the sales contract expressed on the basis of either shipment from the United States or the Canadian transshipment port or arrival in the eligible country. If an arrival period is shown, the offer must also indicate an anticipated shipment period. If a multiple month delivery schedule is agreed upon in the sales contract the offer must specify the quantity of the eligible commodity to be delivered each month or at other specified intervals.

(17) Any options which may be exercised by the eligible buyer under the sales contract. If the offer is accepted by CCC, the exporter must immediately inform CCC if any such options are exercised by the buyer.

(18) The name and address of the sales agent, if any, for the sales contract.

(19) The designation of bonus payment under "Option A" or "Option B," as described in § 1494.401(c).

(20) The words "ALL ITEM 20 CERTIFICATIONS ARE BEING MADE IN THIS OFFER" which, when included in the offer by the eligible exporter, will indicate that the eligible exporter is certifying that:

(i) The information furnished to CCC with respect to the sales contract is correct;

(ii) The date of sale with an eligible buyer was after the issuance date of the applicable Invitation;

(iii) The sale does not replace any sale made to the eligible buyer by the eligible exporter, or any affiliate or subsidiary of

the eligible exporter, prior to the issuance date of the applicable Invitation;

(iv) There are no other arrangements or understandings between the eligible exporter and any other person that would alter the information provided under paragraph (c) of this section;

(v) There were and will be no corrupt payments or extra sales services, or other items extraneous to the export sale provided in connection with the export sale, and the transaction complied with applicable U.S. law;

(vi) The CCC bonus requested in the offer has been arrived at independently, without any consultation, communication, or agreement with any other eligible exporter or competitor relating to:

(A) The amount of the CCC bonus;

(B) The intention to submit an offer; or

(C) The methods or factors used to calculate the CCC bonus requested;

(vii) The CCC bonus requested in the offer has not been and will not knowingly be disclosed by the eligible exporter, directly or indirectly, to any other eligible exporter or competitor before the time the offer is to be considered by CCC, unless otherwise required by law;

(viii) No attempt has been made, or will be made, by the eligible exporter to induce any other concern to submit, or not to submit, an offer for the purpose of restricting competition;

(ix) The signatory of the offer:

(A) Is the person in the eligible exporter's organization responsible for determining the CCC bonus being requested and has not participated and will not participate in any action contrary to subparagraphs (c)(20) (vi), (vii), and (viii) of this section; or

(B) Has been authorized in writing to act as agent for the eligible exporter for the purposes of paragraphs (b) and (c) of this section and certifies that the eligible exporter named in the offer and the signatory have not participated and will not participate in any action contrary to subparagraphs (c)(20) (vi), (vii), and (viii) of this section;

(x) If the eligible commodity is vegetable oil or a vegetable oil product, that none of the eligible commodity has been or will be used as the basis of a claim of a refund, as drawback, pursuant to Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) of any duty, tax or fee imposed under Federal law on an imported commodity or product;

(xi) The agricultural commodity or product to be exported under an EEP Agreement will be an United States agricultural commodity or product thereof as defined by § 1493.201(gg);

(xii) The eligible exporter is providing the assurances required by §§ 15.4 and 15b.5 of this title (7 CFR part 15 relates to various non-discrimination provisions);

(xiii) The eligible exporter still meets all of the qualification and program eligibility requirements of § 1494.301 and will immediately notify CCC if there is a change of circumstances which should cause it to fail to meet such requirements; and

(xiv) The eligible exporter is providing any other certification required by the applicable Invitation.

Any eligible exporter which is unable to make the certifications specified in this subparagraph (c)(20) must provide a written statement to that effect to CCC and may include any explanation or any additional information for the consideration of CCC. CCC will reject an offer if the eligible exporter states that it is unable to provide the required certifications, unless CCC determines that acceptance of the offer would be in the best interests of the EEP.

(d) *Conditional offers.* Any qualification or condition in, or added to, the offer and not expressly authorized by this subpart or the applicable Invitation may make such offer ineligible for consideration by CCC.

(e) *CCC's right to additional information.* CCC may require the individual who signed the offer to provide documentary evidence of such individual's authority to execute an Agreement with CCC on behalf of the eligible exporter making the offer. CCC may require the eligible exporter to submit any other information which CCC deems necessary for consideration of the eligible exporter's offer. The exporter must furnish a copy of the sales contract to CCC upon request.

(f) *Considerations in making an offer.* In making an offer, the eligible exporter should take into consideration that the exchange of CCC Certificates which may be issued as a bonus will be governed by the terms and conditions stated on the certificates and by any applicable regulations or procedures issued by or on behalf of CCC.

§ 1494.601 Acceptance of offers by CCC.

(a) *Establishment of acceptable sales prices and CCC bonuses.* For each Invitation, CCC will establish sales prices for the eligible commodity and CCC bonus amounts which would be acceptable to CCC in terms of furthering the objectives of the EEP.

(1) In establishing acceptable sales prices for the eligible commodity, CCC will consider available relevant market data.

(2) In determining acceptable CCC bonus amounts, CCC may take into consideration factors such as, but not limited to, the following: The prevailing domestic market price of the eligible commodity; the price of the same agricultural commodity exported by other exporting countries to the eligible country; ocean freight rates for the export of the eligible commodity from the U.S. and other exporting countries to the eligible country; the particular preferences or purchasing practices of buyers in the eligible country which would customarily affect the acceptability of the eligible commodity relative to that of competing exports of the same agricultural commodity to the eligible country from other exporting countries; and the cost effectiveness of the payment of a CCC bonus amount in view of CCC's obligation to maximize the use of resources available for the operation of the EEP.

(3) The acceptable sales prices and bonus amounts will be modified by CCC as necessary to take advantage of updated information that becomes available to CCC.

(b) *Acceptance of offers for a CCC bonus on a competitive basis.* An offer from an eligible exporter for a CCC bonus on a competitive basis that meets all of the requirements of this subpart will first be reviewed to determine if the offer contains an acceptable sales price. If the sales price contained in the offer is found to be acceptable, then the CCC bonus contained in the offer will be reviewed to determine if the CCC bonus requested is found to be acceptable. Offers with acceptable sales prices and acceptable CCC bonuses will be accepted under each Invitation beginning with the offer having the lowest CCC bonus amount, subject to the limitations in paragraphs (f) and (h) of this section.

(c) *Acceptance of offers for an announced CCC bonus.* Offers from eligible exporters for an Announced CCC Bonus that meet all of the requirements of this subpart and which contain an acceptable sales price will be accepted under each Invitation on a first-come, first-served basis according to the time of receipt of the offer, as determined by CCC, subject to the limitations in paragraphs (f) and (h) of this section.

(d) *Notification of acceptance of offers.* CCC will notify an eligible exporter by telephone of the acceptance or rejection of its offer as soon as possible after review of the exporter's offer by CCC but not later than 10 a.m. of the next business day after the date the offer was submitted for

consideration. If an offer is rejected, CCC will notify the eligible exporter of the basis for the rejection. Acceptance of offers will be confirmed in writing. The date of the telephonic notification of acceptance by CCC of the eligible exporter's offer will be the effective date of the exporter's Agreement with CCC.

(e) *Announcement of acceptance of offers.* CCC will generally announce the acceptance of offers by public press release as soon as possible after the notification to the exporter. The announcement will generally include the eligible commodity, the eligible country, the exporter, the delivery period, the CCC bonus, and, if applicable, the class of the eligible commodity.

(f) *Limitation on acceptance of offers.* The total quantity of the eligible commodity, exclusive of tolerances, to be exported under all offers that are accepted by CCC pursuant to a particular Invitation will not be greater than the total quantity of the eligible commodity stated in such Invitation. CCC may refuse to accept further offers under an applicable Invitation if the quantity of the eligible commodity, exclusive of tolerances, already accepted totals the quantity, exclusive of tolerances, that is being tendered for by the eligible buyer, even though such quantity may be less than the total quantity available under that Invitation.

(g) *Rejection of offers.* Any offer or part of an offer submitted for consideration that is not accepted by CCC by 10 a.m. of the next business day after the date for which the offer was submitted for consideration will be deemed to have been rejected.

(h) *CCC's right of rejection.* Notwithstanding any other provisions of this subpart, CCC reserves the right to reject any or all offers submitted for consideration on a particular day, including those offers that have acceptable sales prices and CCC bonus amounts.

§ 1494.701 Payment of bonus.

(a) *Forms of bonus.* The bonus may be paid to the exporter in CCC Certificates or in any other form specified in the applicable Invitation which CCC determines to be appropriate.

(b) *Quantity on which bonus is paid.* The quantity of the eligible commodity exported from the U.S. which is eligible for the payment of a CCC bonus is the net weight (less any dockage, if applicable) or count which is established by the Official Inspection Certificate, the Official Weight Certificate or the export bill of lading, whichever is less. If the exporter has furnished performance security under "Option A" of the applicable Invitation

and wishes the bonus to be paid prior to the entry of the eligible commodity into the eligible country, this quantity will be used in calculating the bonus value for the purposes of making payment to the exporter. If the exporter is not paid the bonus until the commodity enters into the eligible country, then this quantity will also be used in calculating the bonus value for the purposes of making payment to the exporter, unless in the determination of CCC, there is evidence to suggest that there was destruction, diversion or loss of the eligible commodity prior to entry into the eligible country. The payment of a bonus value to an exporter does not indicate that the bonus has been earned by the exporter under the Agreement; pursuant to § 1494.801(a)(3), the bonus is not earned by the exporter until the eligible commodity enters into the eligible country in accordance with the Agreement and the exporter submits proof of such entry to CCC.

(c) *Request for bonus payment under "Option A."* If the exporter has furnished performance security under "Option A" of the applicable Invitation and wishes the bonus to be paid after export of the eligible commodity, the exporter must, within 30 calendar days after the date of export of the eligible commodity, furnish to the Director, at the address referenced in the Notice to Exporters—Contacts for EEP, a written request for payment of the bonus. All documents submitted to support such a request must be acceptable to the Director.

(1) To support each bonus payment request, the exporter must furnish to the Director the following:

(i) The original or an original copy of the on-board bill of lading issued for the export carrier and signed by an agent of the export carrier. The bill of lading must show:

(A) The identification of the export carrier;

(B) The date and place of issuance;

(C) The quantity of the eligible commodity;

(D) An on-board date; and

(E) That the eligible commodity is destined for the eligible country.

(ii) The original or an original copy of the Official Weight Certificate, as required in the applicable Invitation. The certificate must show:

(A) The identification of the export carrier, if known at the time of issuance;

(B) The date and place of issuance; and

(C) The weight or count of the eligible commodity.

(iii) The original or an original copy of the Official Inspection Certificate, as

required in the applicable Invitation. The certificate must show:

(A) The identification of the export carrier, if known at the time of issuance;

(B) The date and place of issuance;

(C) The quantity of the eligible commodity to which the certificate relates; and

(D) The quality description of the eligible commodity.

(iv) If the documents submitted under paragraphs (c)(1)(ii) and (iii) of this section do not specify the export carrier, the exporter must also submit a signed certification that the commodity represented by the Official Inspection and/or the Official Weight certificates is the identical eligible commodity represented on the export bill of lading.

(2) If the export of the eligible commodity was by lash barge, the exporter must furnish, in addition to the documents required by paragraph (c)(1) of this section, a statement from the vessel's agent showing that the lash barge was loaded to the lash vessel named in the on-board bill of lading and that the eligible commodity is destined for the eligible country.

(3) If the export of the eligible commodity was from a Canadian transshipment port on the St. Lawrence River, the exporter must furnish to the Director the following, in addition to the documents required by paragraph (c)(1) of this section:

(i) Documentary evidence covering the movement of the eligible commodity from the United States to the export carrier described in the on-board bill of lading issued at the Canadian transshipment port and showing the information provided in paragraphs (c)(1) and, if applicable, (c)(2) of this section; and

(ii) A certification that the eligible commodity exported is the identical eligible commodity that was shipped from the United States.

(4) If the export of the eligible commodity was by railcar or truck, the exporter must furnish to the Director the following, in addition to the documents required by paragraphs (c)(1)(ii) and (iii) of this section:

(i) The authenticated landing certificate or similar document issued by the government of the eligible country; and

(ii) The original or an original copy of the bill of lading issued at the point of loading the railcar or truck. The bill of lading must show:

(A) The identification of the export carrier;

(B) The date and place of issuance;

(C) The quantity of the eligible commodity;

(D) The date that the railcar or truck was loaded; and

(E) That the eligible commodity is destined for the eligible country.

(d) *Request for bonus payment under "Option B."* If the exporter has furnished performance security under "Option B" of the applicable Invitation and wishes the bonus to be paid after the entry of the exported eligible commodity into the eligible country, the exporter must, within 60 calendar days after the date of entry of the eligible commodity into the eligible country, furnish to the Director at the address referenced in the Notice to Exporters—Contracts for EEP, a written request for payment of the bonus. To support each request, the exporter must furnish to the Director, in a form acceptable to the Director, the documents specified in paragraph (c) of this section, as applicable, along with the certification of entry specified in § 1494.401(f)(2).

(e) *Time frame for payment of a bonus.* CCC will endeavor to pay the bonus to the exporter within 10 business days after CCC determines that the documents supporting the bonus request are acceptable.

(f) *Certificate amount.* If CCC decides to pay the bonus in the form of a CCC Certificate(s), the dollar value of the certificate(s) issued to the exporter will be determined by multiplying the CCC bonus specified in the Agreement by the net quantity of the eligible commodity on which the bonus is to be paid, as specified in paragraph (b) of this section, less any dockage if applicable.

(g) *Late requests for bonus payment.* If CCC decides to pay the bonus in the form of a CCC Certificate(s) and the exporter fails to request issuance of the certificate(s) within 30 calendar days after the date of export of the eligible commodity, if the exporter has chosen performance security "Option A," or within 60 days after the entry of the eligible commodity into the eligible country, if the exporter has chosen performance security "Option B," CCC may, upon issuing the certificate(s), discount the certificate(s) in an amount determined appropriate by CCC to compensate it for costs which may be incurred by CCC as a result of the exporter's delay.

§ 1494.801 Enforcement and termination of Agreements with CCC.

(a) *Performance in accordance with an Agreement with CCC.* (1) An exporter which enters into an Agreement with CCC must ensure that the eligible commodity is exported from the U.S. and enters the eligible country in accordance with the terms and conditions of the Agreement.

(2) The diversion of the eligible commodity to a country other than the eligible country is prohibited. Transshipments of the eligible commodity are permitted only if specifically allowed in the applicable Invitation or for shipment through a Canadian transshipment port on the St. Lawrence River if the eligible commodity had been shipped from the United States via the Great Lakes coastal range and its identity had been preserved until shipped from Canada.

(3) Regardless of whether or not a bonus has been paid by CCC to the exporter pursuant to § 1494.701, the bonus is not earned by the exporter until the eligible commodity enters into the eligible country in accordance with the Agreement. In order to retain a bonus or request payment of a bonus, depending upon the option chosen for furnishing performance security, and to request cancellation of the performance security, the exporter must provide evidence to CCC, as specified in § 1494.401(f)(2), that the eligible commodity entered into the eligible country. If, on the basis of evidence available to it, CCC determines that there was destruction, diversion or loss of the eligible commodity prior to entry into the eligible country, CCC will not release the amount of performance security corresponding to the amount of eligible commodity for which insufficient evidence of entry into the eligible country was presented to CCC until:

(i) CCC recovers from the exporter the amount of the bonus corresponding to such amount of the eligible commodity, if the exporter has already been paid the bonus under performance security "Option A"; and

(ii) The requirements of either § 1494.401(f)(1)(ii) or § 1494.401(f)(1)(iii) have been met.

(4) The failure of an exporter to perform in full and to fulfill all of its obligations under the Agreement will constitute a breach of the Agreement. An exporter which breaches the Agreement may be required to forfeit its right to receive or retain part or all of the bonus authorized or paid under the Agreement and may also be liable to CCC for damages. Examples of an exporter's failure to perform under the Agreement include, but are not limited to, the following:

(i) The exporter does not ship all of the required amount of the eligible commodity in accordance with the delivery period stated in the Agreement;

(ii) The exporter exports an amount of the eligible commodity that is inconsistent with the quality specifications in the Agreement;

(iii) The exporter is unable to provide a certification that all of the eligible commodity exported pursuant to the Agreement was entered into the eligible country;

(iv) The eligible commodity is transshipped through any country, other than Canada, unless specifically allowed in the applicable Invitation; or

(v) The eligible commodity is transshipped through Canada without having its identity preserved.

(5) If the eligible commodity is to be delivered to the eligible buyer in multiple shipments, CCC may decide to consider the shipments separately in determining whether the exporter has failed to perform under the Agreement.

(b) *Return of bonus.* An exporter that fails to fulfill all of its obligations under the Agreement shall be in default. If an exporter that has already been paid the bonus value defaults, CCC shall have the right to recover the bonus value paid for the quantity of the eligible commodity with respect to which the exporter failed to perform under the Agreement.

(1) If CCC has paid this bonus value in the form of a CCC Certificate(s), the exporter shall pay to CCC the higher of:

(i) The dollar value of the CCC Certificate(s);

(ii) The dollar amount received for the CCC Certificate(s) if the CCC Certificate(s) was transferred to another party; or

(iii) The dollar amount of the proceeds from the sale of the CCC-owned commodities exchanged for the CCC Certificate(s) if the commodities were sold to another party.

(2) If CCC has paid this bonus value in some other form, as specified in the applicable Invitation, the exporter shall pay to CCC the dollar and cents amount or equivalent of the bonus value paid to the exporter.

(c) *Liability for liquidated damages.* The exporter's failure to perform under the Agreement will cause serious and substantial losses to CCC, such as damages to the EEP and CCC's domestic price support program, storage charges, and administrative and other costs incurred. If the exporter breaches the Agreement, the exporter will be liable to pay to CCC as liquidated damages an amount obtained by applying the method or rate for determining damages specified in the applicable Invitation to the quantity of the eligible commodity with respect to which the exporter failed to perform under such Agreement. In submitting an offer in response to an Invitation issued under this subpart, the exporter agrees that such liquidated damages are reasonable estimates of the

probable actual damages which may be incurred by CCC.

(d) *Decision to hold the exporter harmless for liquidated damages.* CCC will hold an exporter harmless for the payment of liquidated damages if:

(1) The exporter's failure to perform under the Agreement was due to causes solely without the exporter's fault or negligence and the exporter had taken the necessary action to enable it to export the required quantity of the eligible commodity and enter it into the eligible country; or

(2) The eligible commodity was lost or destroyed after it had been placed aboard the export carrier.

In making the decision whether to hold an exporter harmless pursuant to this paragraph, CCC may consider any information available to CCC, including any information provided to it by the exporter.

(e) *Fraud, scheme or device.* Notwithstanding any other provision of law, CCC may take action to recover any bonus paid or to hold the exporter liable for the payment of damages caused to CCC if the exporter engages in fraud with respect to the EEP, or adopts or participates in adopting a scheme or device which is designed to evade this subpart or which has the effect of evading this subpart. Such acts shall include, but are not limited to:

(1) Concealing information which is required by this subpart; or

(2) Submitting information which is known by the exporter to be false or erroneous.

(f) *CCC's right to recover amounts due CCC by exporters.* If the exporter breaches its obligations under the Agreement and becomes liable to CCC for repayment of the bonus value or for liquidated or other damages, CCC reserves the right to recover such amounts due CCC by making a claim against the performance security furnished to CCC, as described under § 1494.401, or by taking any other measures available to CCC as a result of this subpart or any laws or regulations, including debt settlement regulations, applicable to CCC.

(g) *Shipping tolerances.* If the exporter exports and enters into the eligible country, in accordance with the requirements of the Agreement, a quantity of the eligible commodity which is less than the quantity specified in § 1494.501(c)(7) but not less than such quantity minus 5 percent, the exporter shall not be required to pay liquidated damages for failure to perform under the Agreement for the quantity which failed to be exported and entered into the eligible country. If an exporter exports

and enters into the eligible country, in accordance with the requirements of the Agreement, a quantity of the eligible commodity which is greater than the quantity specified in § 1494.501(c)(7), the exporter may request payment of the bonus value based upon the actual quantity, on a net weight basis, exported and entered into the eligible country, but not greater than the quantity specified in § 1494.501(c)(7), plus 5 percent.

(h) *Termination of agreements.* (1) CCC may, by written notice to the exporter, terminate an Agreement, in whole or in part, as a result of:

(i) the failure of the exporter to carry out any provisions of the Agreement;

(ii) the failure of the exporter to maintain a business office in the U.S.;

(iii) the failure of the exporter to maintain an agent in the U.S. for service of process; or

(iv) the suspension or debarment of the exporter from participation in CCC or other U.S. Government programs.

If an Agreement is terminated by CCC pursuant to this subparagraph, CCC will not compensate the exporter for any costs incurred by the exporter. The exporter will be liable to CCC for any funds owed to CCC for the repayment of any bonus already paid and may be liable to CCC for liquidated or other damages suffered by CCC. If CCC intends to hold the exporter liable for liquidated damages, and it has not already so notified the exporter prior to the termination of the Agreement, CCC will generally do so at the time that it notifies the exporter of the termination of the Agreement.

(2) CCC may, by written notice to the exporter, terminate an Agreement, in whole or in part, if CCC determines it to be in the best interest of CCC. If an agreement is so terminated, the exporter will be compensated for reasonable losses, as determined by CCC, resulting from such termination. These losses will not include lost profits and will not exceed the bonus value under the Agreement.

(i) *Amendment of agreements.* (1) CCC will have the authority to amend an Agreement, either before or after such Agreement has been breached by the exporter, if the exporter requests that the Agreement be amended and CCC determines that such amendment would serve the best interests of the EEP. The exporter may be required to submit documentary evidence to CCC to demonstrate that it is making progress toward fulfilling the Agreement before CCC will consider amending the Agreement. All requests for amendments submitted by exporters, and all amendments made by CCC to an

Agreement, under this subpart shall be in writing.

(2) Prior to amending an Agreement with the exporter, CCC will consider whether the amendment to the Agreement should include a reduction in the CCC bonus or a modification of the sales price. If CCC determines that the CCC bonus and the sales price are still acceptable, it may amend the Agreement to incorporate the exporter's requested change, while maintaining the current CCC bonus and sales price, provided that the amendment would otherwise serve the best interests of the EEP. If CCC determines that the CCC bonus and/or the sales price are no longer acceptable, due to changes in market or other conditions, it will so inform the exporter. If the exporter still requests that the Agreement be amended, CCC and the exporter will enter into discussions in an attempt to arrive at a new CCC bonus and/or sales price which would be acceptable to CCC. If these discussions are successful, then CCC may amend the Agreement to incorporate the exporter's requested change as well as the new CCC bonus and/or sales price, provided that the amendment would otherwise serve the best interests of the EEP. If these discussions are unsuccessful, then the Agreement will not be amended and the exporter will be considered to be in breach of the Agreement if it fails to perform under the terms of the Agreement.

(j) *Amendments to sales contracts.* In the event of an amendment to the sales contract between the exporter and the eligible buyer or a change in the delivery schedule, CCC will determine whether the amendment or change would constitute a breach of the Agreement. If CCC determines that the amendment or change would constitute a breach of the Agreement, CCC may terminate the Agreement. In the alternative, if CCC determines that a continuation of the Agreement would serve the best interests of the EEP, and if the exporter requests an amendment, CCC may amend the Agreement to take into account the amendment to the sales contract or change in delivery schedule. An amendment to an Agreement will be in accordance with paragraph (i)(1) of this section. CCC will promptly advise the exporter of its determination in writing by letter, facsimile, or telex.

§ 1494.901 Dispute resolution and appeals.

(a) *Dispute resolution.* (1) The Director of the CCC Operations Division (Director, CCCOD) and the exporter will attempt to resolve any disputes,

including any adverse determinations made by CCC, arising under the EEP, this subpart, the applicable Invitation, or the Agreement.

(2) The exporter may seek reconsideration of a determination by the Director, CCCOD relating to the Agreement by submitting a letter requesting reconsideration to the Director, CCCOD, within 30 days of the date of the determination. For the purposes of this section, the date of a determination will be the date of the letter or other means of notification to the exporter of the determination. The exporter may include with the letter requesting reconsideration any additional information which it wishes the Director, CCCOD, to consider in reviewing its request. The Director, CCCOD, will respond to the request for reconsideration within 30 days of the date on which the request or the final documentary evidence submitted by the exporter is received by him, whichever is later, unless the GSM extends the time permitted for response. If the exporter fails to request reconsideration of a determination by the Director, CCCOD, that the exporter owes any funds to CCC under the Agreement, then such funds will become a debt of the exporter to CCC at the expiration of the 30-day period for submitting such a request.

(3) If the exporter requested a reconsideration of a determination by the Director, CCCOD, pursuant to subparagraph (a)(2) of this section, and the Director, CCCOD, upheld the original determination, then the exporter may appeal the determination to the GSM in accordance with the procedures set forth in paragraph (b) of this section. If the exporter fails to appeal the determination to the GSM, then any funds owed to CCC will become a debt of the exporter to CCC at the expiration of the 30-day period for submitting an appeal to the GSM.

(b) *Appeal procedures.* (1) An exporter which has exhausted the procedures set forth in paragraph (a) of this section may appeal to the GSM a determination of the Director, CCCOD, relating to the Agreement between the exporter and CCC. An appeal to the GSM must be in writing and filed with the office of the GSM no later than 30 days following the date of the final determination by the Director, CCCOD. In this appeal to the GSM, the exporter shall be entitled to an administrative hearing before the GSM, if the exporter indicates in its appeal letter that it desires such a hearing.

(2) If the exporter does not desire an administrative hearing, the exporter may submit any additional written

information or documentation which it desires the GSM to consider in acting upon its appeal. This information or documentation may be submitted to the GSM up until the time that a decision is made by the GSM. The GSM will base the determination upon information contained in the administrative record. The GSM will endeavor to make a decision on an appeal not involving a hearing within 60 days of the date on which the GSM receives the appeal or the date that final documentary evidence is submitted by the exporter to the GSM, whichever is later.

(3) If the exporter has indicated that it desires an administrative hearing, the GSM will set a date and time for the hearing which is mutually convenient for the GSM and the exporter. This date will ordinarily be within 60 days of the date on which the GSM receives the request for hearing. The hearing will be an informal procedure. The exporter and/or its counsel may present any administrative or documentary evidence to the GSM which it desires to have the GSM consider in making a determination. A transcript of the hearing will not ordinarily be prepared unless the exporter bears the costs involved in preparing the transcript, although the GSM may arrange to have a transcript prepared at the expense of the Government if it is determined to be appropriate. The exporter may provide additional written information to the GSM up until the time that the GSM makes a determination. The GSM will base the determination upon the information contained in the administrative record and will endeavor to make a decision within 60 days of the date of the hearing or the date of receipt of the transcript, if one is to be prepared, whichever is later.

(4) The decision of the GSM will be the final determination of CCC and the exporter will be entitled to no further administrative appellate rights.

(5) If the GSM upholds a determination of the Director, CCCOD, that the exporter owes any funds to CCC under the Agreement, then such funds will become a debt of the exporter to CCC.

(c) *Failure to comply with determination.* If, for any reason, the exporter has failed to pay funds to CCC which have been determined to be owed to CCC under the Agreement and the exporter has exhausted its rights under this section or has failed to exercise such rights, then CCC will have the right to withdraw funds from the performance security established by the exporter or to take any other measures available to CCC as result of this subpart or any laws or regulations, including debt

settlement regulations, applicable to CCC.

(d) *Exporter's obligation to perform.* The exporter will continue to have an obligation to perform under the Agreement pending the conclusion of all procedures under this section.

§ 1494.1001 Miscellaneous provisions.

(a) *Assignments.* The exporter may not assign the Agreement or any rights thereunder, including the right to receive a bonus under the Agreement.

(b) *Maintenance of records and access to premises.* (1) For a period of five years after CCC agrees to the cancellation of an exporter's performance security for an Agreement, the exporter must maintain accurate records showing sales and deliveries of the eligible commodity exported in connection with the Agreement. The Secretary of Agriculture and the Comptroller General of the United States, through their authorized representatives, will have full and complete access to the premises of the exporter during regular business hours from the effective date of the Agreement until the expiration of such five-year period to inspect, examine, audit and make copies of the exporter's books, records and accounts concerning transactions relating to the Agreement, including, but not limited to, financial records and accounts pertaining to sales, inventory, processing, and administrative and incidental costs, both normal and unforeseen. From the effective date of the Agreement and until the expiration of such five-year period, the exporter may be required to make available to the Secretary of Agriculture and the Comptroller General of the United States, through their authorized representatives, records that pertain to transactions conducted outside the program, if, in the opinion of the GSM, such records would pertain directly to the review of transactions undertaken by the exporter in connection with the performance of an EEP Agreement.

(2) The exporter must maintain the certification of entry specified in § 1494.401(f)(2), and must provide access to such document if requested by the Secretary of Agriculture or an authorized representative, for the five-year period specified in subparagraph (b)(1) of this section.

(c) *Arrival verification reviews.* CCC will review, on an annual basis, a sufficient number of exports made in connection with EEP Agreements to ensure that the eligible commodity which was exported pursuant to each

such Agreement arrived in the eligible country specified in the Agreement.

(d) *Signatory on certifications.* Any certification required from a person pursuant to this subpart or an Invitation must be signed by the person, if an individual, or by a partner or officer of the person, if the person is a partnership or a corporation, respectively.

(e) *Officials not to benefit.* No member of or Delegate to Congress, or Resident Commissioner, will participate or share in any of the benefits of any Agreement entered into pursuant to the EEP, but this provision may not be construed to extend to an Agreement made by CCC with a corporation for its general benefit.

(f) *Paperwork Reduction Act.* The information collection requirements contained in this subpart have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0551-0028.

(g) *Waiver of irregularities.* CCC reserves the right to waive any informality or minor irregularity with respect to any aspect of the operation of the EEP or any Agreement executed thereunder in order to best accomplish the purposes of the program.

Signed this 28th day of May, 1991 at Washington, DC.

F. Paul Dickerson,

General Sales Manager and Vice President,
Commodity Credit Corporation.

[FR Doc. 91-12939 Filed 5-31-91; 8:45am]

BILLING CODE 3410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-107-AD; Amendment 39-7005]

Airworthiness Directives; Boeing Model 767-200 and 767-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767-200 and 767-300 series airplanes, which requires inspection of the center wing fuel tank override boost pumps for discrepant inlet diffuser assembly brazed joints and replacement of unacceptable assemblies or deactivation of the center wing fuel tank system. This amendment is prompted by reports of

center wing fuel tank override fuel boost pumps whose brazed joints may be inadequate, which could allow separation of the diffuser ring, cause damage to the impeller and pumping unit housing, and possibly stop the rotation of the pump shaft. This condition, if not corrected, could, during dry pump operation, result in the generation of sparks, thereby creating a potential ignition source.

DATES: Effective June 3, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 3, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Lanny Pinkstaff, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2684. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: The FAA has received reports of failures of the fuel boost pumps on Boeing Model 767-200 and 767-300 series airplanes. Subsequent investigation of the center wing fuel tank override boost pump assemblies has revealed that, on certain pumping units, the brazed joints that attach the diffuser ring to the diffuser may not contain enough filler (braze) material. Inadequate filler material at these joints may allow the diffuser ring to break from the diffuser sleeve support struts; this could cause damage to the impeller and pumping unit housing, and possibly stop the rotation of the pump shaft. During dry pump operation, a detached diffuser ring may generate sparks if the unit continues to operate, and thereby create a potential ignition source inside the tank.

The airplane manufacturer has identified unacceptable brazed joints on one pump assembly returned by an operator and on two pumps removed from production airplanes prior to their delivery to customers. The override fuel boost pump manufacturer has identified similar conditions on 6 out of 52 pumps inspected to date.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-28A0036, dated May 3, 1991, which

describes inspection procedures to determine if certain affected pumping unit diffuser assemblies have properly brazed joints, and rework procedures to remove discrepant diffuser assemblies and replace them with acceptable units. The proper deactivation procedures are also described in the service bulletin for operators who elect to deactivate the center wing fuel tank rather than perform the inspection, repair, and/or replacement.

Since this condition is likely to exist on other airplanes of the same type design, this AD requires inspection of diffuser assemblies for those suspected of having inadequately brazed joints and replacement of discrepant assemblies; if necessary; or, as an alternative, deactivation of the center wing fuel tank; in accordance with the service bulletin previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-11-08, Boeing: Amendment 39-7005.
Docket 91-NM-107-AD.

Applicability: Model 767-200 and 767-300 series airplanes, listed in Boeing Alert Service Bulletin 767-28A0036, dated May 3, 1991, certificated in any category.

Compliance: Required within 30 days after the effective date of this AD, unless previously accomplished.

To prevent, during dry pump operation, a potential ignition source in the center wing tanks due to a broken pumping unit diffuser ring, accomplish the following:

(a) Inspect the center wing tank pumping units, part number 5006286, in accordance with the procedures of Boeing Alert Service Bulletin 767-28A0036, dated May 3, 1991.

(1) If diffuser assembly brazed joints are found to be acceptable, reidentify and reinstall the pumping unit in accordance with the service bulletin. No further action is required.

(2) If the brazed joints are determined to be discrepant, as indicated by the inspection procedure, repair or replace the diffuser assembly in accordance with the service bulletin prior to reinstallation of the pumping unit.

(b) In lieu of performing the inspection, repair, and/or replacement described in paragraph (a) of this AD, deactivate the center wing fuel tank in accordance with Boeing Service Bulletin 767-28A0036, dated May 3, 1991. The tank may be reactivated only following completion of the inspections, repairs, and/or replacement required by paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The inspections, repairs, and replacement shall be done in accordance with Boeing Alert Service Bulletin 767-28A0036, dated May 3, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-7005, AD 91-11-08) becomes effective June 3, 1991.

Issued in Renton, Washington, on May 13, 1991.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 91-12986 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE**Bureau of Export Administration****15 CFR Parts 775, 776, 779, 785, and 799**

[Docket No. 910503-1103]

Editorial Revisions to the Export Administration Regulations: Deletion of References to East and West Berlin

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations are being amended to delete references to East and West Berlin. The unification of Germany has made these references unnecessary.

EFFECTIVE DATE: This rule is effective June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon Gongwer, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: 202-377-2440.

SUPPLEMENTARY INFORMATION:**Rulemaking Requirements**

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule does not involve a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C.

553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date, are inapplicable because the regulation involves a foreign and military affairs function of the United States. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, this rule is being issued in final form. However, comments from the public are always welcome. Comments should be submitted to Sharon Gongwer, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Parts 775, 776, and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

15 CFR Part 785

Communist countries, Exports.

Accordingly, parts 775, 776, 779, 785, and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citations for 15 CFR parts 775, 776, 779, 785, and 799 continue to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

PART 775—[AMENDED]**§ 775.3 [Amended]**

2. In § 775.3(b), the list of country destinations subject to the International Import Certificate/Delivery Verification Certificate System requirements is amended by removing the parenthetical phrase "(including West Berlin)" in the entry for Germany, Federal Republic of.

Supplement 1 to Part 775 [Amended]

3. In Supplement 1 to part 775, the entries under the "Country", "IC/DV

Authorities," and "System Administered" columns for "West Berlin" are removed.

PART 776—[AMENDED]

§ 776.14 [Amended]

4. In § 776.14, the phrase "the Federal Republic of Germany (including West Berlin)" in the first sentence of paragraph (a) is revised to read "the Federal Republic of Germany".

§ 776.16 [Amended]

5. In § 776.16, the phrase "the Federal Republic of Germany (including West Berlin)" in the first sentence of paragraph (a) is revised to read "the Federal Republic of Germany".

PART 779—[AMENDED]

§ 779.4 [Amended]

6. In § 779.4 the phrase "the Federal Republic of Germany (including West Berlin)" in the first sentence of paragraph (h) is revised to read "the Federal Republic of Germany".

PART 785—[AMENDED]

§ 785.4 [Amended]

7. In § 785.4, the phrase "the Federal Republic of Germany (including West Berlin)" in paragraphs (g)(2) and (g)(3) is revised to read "the Federal Republic of Germany".

PART 799—[AMENDED]

§ 799.1 [Amended]

8. In § 799.1, the phrase "the Federal Republic of Germany (including West Berlin)" in the second sentence of paragraph (m) is revised to read "the Federal Republic of Germany".

Dated: May 24, 1991.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 91-12773 Filed 5-31-91; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Part 799

[Docket No. 910509-1109]

Removal of National Security Controls for Exports of Certain Prepreg Production Equipment

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: This interim rule removes national security controls for exports of certain prepreg production equipment controlled under Export Control Commodity Number (ECCN) 1357A in

the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR). This action follows a positive determination of foreign availability under section 5(f) of the Export Administration Act of 1979, as amended (EAA), and section 791 of the EAR. However, the removal of national security controls does not eliminate the need to obtain validated licenses for this prepreg production equipment. This equipment continues to require a validated license for export to all destinations except Canada because it is subject to foreign policy controls designed to limit the proliferation of nuclear-capable missiles. All other foreign policy controls also remain in effect.

DATES: *Effective date:* This rule is effective June 3, 1991. *Comment date:* Comments must be received by July 2, 1991.

ADDRESSES: Written comments (6 copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Surendra Dhir, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-5695.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the Export Administration Regulations (EAR) in Executive Order 12730 of September 30, 1990.

The Bureau of Export Administration (BXA) maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. With limited exceptions, BXA may not maintain national security export controls on items for which a positive determination has been made under section 5(f) of the Export Administration Act of 1979, as amended (EAA), and section 791 of the Export Administration Regulations (EAR).

On September 25, 1989, the Commerce Department published a Federal Register notice (54 FR 39218) stating that on August 18, 1989, the Deputy Assistant Secretary for Export Administration had made a positive determination of foreign

availability under section 5(f) of the EAA for certain prepreg production equipment controlled under paragraph (e) of ECCN 1357A in the CCL. The notice also indicated that on September 15, 1989, the President had determined that export controls must be maintained on this prepreg production equipment, notwithstanding foreign availability, because the removal of these controls would prove detrimental to the national security of the United States (see Presidential Determination No. 89-27 of September 25, 1989 (54 FR 39159)). The President directed the Secretary of State (in consultation with the Secretaries of Commerce and Defense) to initiate negotiations with source countries, as required by section 5(f) of the EAA, for the purpose of eliminating foreign availability for this equipment. The Secretary of Commerce certified to Congress that progress was demonstrated during the first six months of the negotiations and on March 15, 1990, extended the negotiations for an additional twelve months, to March 15, 1991.

The negotiations to eliminate foreign availability for prepreg production equipment have concluded. The negotiations resulted in the elimination of foreign availability for hot melt prepreg production equipment, but they did not eliminate foreign availability for prepreg production equipment designed to use a solvent coating method. Hot melt prepreg production equipment remains controlled both for national security reasons and for foreign policy reasons.

This interim rule implements the August 18, 1989, positive determination of foreign availability only as it applies to prepreg production equipment designed to use a solvent coating method. Specifically, this rule revises the *Reason for Control* paragraph for ECCN 1357A by removing national security controls for exports to all destinations of prepreg production equipment, described in paragraph (e) of ECCN 1357A, that is designed to use a solvent coating method. While this change effectively removes national security based validated licensing requirements for this equipment, it does not affect the destinations for which a validated license is required.

This prepreg production equipment continues to require a validated license to all destinations except Canada because it remains subject to foreign policy controls designed to limit the proliferation of nuclear-capable missiles (see § 776.18 of the EAR for a description of the Missile Technology

Control Regime). In addition, all other foreign policy controls remain in effect.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.
2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005.
3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close July 3, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All

public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

1. The authority citation for 15 CFR part 799 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986); Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

PART 799—[AMENDED]

2. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1357A is amended under the Controls for ECCN heading by revising the *Reason for Control* and *Technical Data* paragraphs, as follows:

1357A Equipment for the production of fibers controlled for export by ECCN 1763A or their composites, and specially designed components and accessories and "specially designed software" therefor

Controls for ECCN 1357A

Reason for control: National security; foreign policy. National security controls apply to all items described in this entry, except prepreg production equipment controlled under paragraph (e) in the List of this ECCN that is designed to use a solvent coating method only. Foreign policy controls to limit the proliferation of nuclear-capable missiles apply to all items described in this entry.

Special licenses available: * * *

Technical data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

Dated: May 24, 1991.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 91-12874 Filed 5-31-91; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Biologics Evaluation and Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to issuing notices of revocation of product or establishment licenses. The amendment provides for the Center for Biologics Evaluation and Research (CBER) to issue notices of revocation when a manufacturer has waived the opportunity for a hearing. This action will make CBRE's authority concerning revocation of licenses similar to the Center for Veterinary Medicine's authority regarding withdrawing approval of new animal drug applications and the Center for Drug Evaluation and Research's authority regarding withdrawing approval of new

drug applications when a manufacturer has waived its opportunity for a hearing.

EFFECTIVE DATE: June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION:

Currently, the Director and Deputy Director, CBER, are authorized to issue a notice of license revocation when requested by the manufacturer (21 CFR 5.67(c)). This new delegation of authority will also authorize them to issue a notice of license revocation when a manufacturer has waived the opportunity for a hearing under § 601.7(a) (21 CFR 601.7(a)) by failing to respond to a notice of opportunity for a hearing (see 21 CFR 314.200(a)(2), referenced in § 601.7(a)). Currently, this authority is held by the Commissioner or his designee.

Therefore, the agency is adding new paragraph (d) to § 5.67 *Issuance of notices of opportunity for a hearing on proposals for denial of approval of applications for licenses or revocation of licenses and certain notices of revocation of licenses.*

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such a position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261-1282, 3701-3711a; secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 21 U.S.C. 41-50, 61-63, 141-149, 467f, 679(b), 801-886, 1031-1309; secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-393); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354-360f, 361, 362, 1701-1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b-263n, 264, 265, 300a-300a-5, 300aa-1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007-10008; E.O. 11490, 11921, and 12591.

2. Section 5.67 is amended by adding new paragraph (d) to read as follows:

§ 5.67 Issuance of notices of opportunity for a hearing on proposals for denial of approval of applications for licenses or revocation of licenses and certain notices of revocation of licenses.

(d) Notices of revocation when the manufacturer has waived the opportunity for hearing under § 601.7(a) of this chapter.

Dated: May 29, 1991.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-12980 Filed 5-31-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Prescriptions; Requirements Clarification

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This final rule amends 21 CFR 1306.05 and 1306.13 to clarify the requirements of prescriptions for controlled substances, and to extend the partial filling of Schedule II prescriptions to patients in hospice or home-care that have a medical diagnosis documenting a terminal illness. The proposal regarding the use of medication order sheets for filling prescriptions for patients in Long Term Care Facilities under the provisions of 21 CFR 1306.11 is not adopted at this time and will be the subject of a separate proposed Federal Register announcement which will allow a period for additional comments.

EFFECTIVE DATE: July 3, 1991.

FOR FURTHER INFORMATION CONTACT: Chief, State and Industry Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 (202) 307-7297.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the Federal Register on March 16, 1989 (54 FR 11006) to amend 21 CFR 1306.02, 1306.05, 1306.11, and 1306.13 to clarify the issuance of controlled substance prescriptions and to facilitate the requirements for Schedule II prescriptions for patients in a Long Term Care Facility (LTCF) and the terminally ill. The proposed rulemaking provided an opportunity for interested parties to

submit comments in writing on or before April 17, 1989. The comment period was extended until May 25, 1989 by a notice published in the Federal Register on April 25, 1989 (54 FR 17769).

Section 1306.02 Definitions

Several comments were received concerning the definition of the term "terminally ill" as used by the Health Care Financing Administration (HCFA) in title 42 CFR 418.3, as an individual who has a medical prognosis that the life expectancy is six months or less. Nine of the comments objected to the six-month limitation as being too restrictive since predicting an individual's life expectancy is difficult and often uncertain. Upon consideration of the comments, DEA has eliminated this definition and has, instead, incorporated into the final regulations the phrase "a patient with a medical diagnosis documenting a terminal illness".

Section 1306.05 Manner of Issuance of Prescriptions

Two comments expressed concern over allowing a secretary or agent of the physician to prepare the prescriptions for the signature of the physician. This provision has always been permitted and is not affected by the proposed changes to § 1306.05. It has been DEA's position that a secretary or agent of the physician may prepare the prescription. However, it is the physician's responsibility before signing the prescription to ensure that the prescription is properly prepared.

Two comments objected to the requirement to specify the quantity prescribed on prescriptions for LTCF patients, especially in those states which do not require a quantity of prescribed drugs for LTCF residents or for hospice or home-care patients. DEA has considered these comments and finds that the quantity prescribed has always been a requirement of the regulations. For example, 21 CFR 1304.24 requires dispensers of controlled substances to maintain records including the number of units dispensed. And, 21 CFR 1306.22(b)(1) requires computerized prescription records to provide on-line retrieval of original prescription order information including the drug name, strength, dosage form and quantity prescribed. The purpose of this change is to make "quantity prescribed" a part of 21 CFR 1306.05, "Manner of issuance of prescriptions."

One comment questioned the requirement for "directions for use" on the prescription and inquired whether the phrase "take as directed" would

satisfy the requirement. DEA considers the "directions for use" to be essential to drug therapy and on a prescription it serves as a means of communicating to the patient and pharmacist the recommended dosage. The use of the phrase "take as directed," while not desirable complies with the regulatory requirement. The most communicative form of directions include the number of dosage units to be taken in a specified time period.

Section 1306.11 Requirement for Prescription (Schedule II)

Seven comments were received addressing the proposed use of the physician's medication order sheet for LTCF patients in lieu of a signed written prescription from the physician. While some supportive comments were received, most of the comments indicated that the proposed changes did not adequately address the realities of LTCF operations, especially the difficulty in obtaining a written prescription from the prescribing physician prior to the need to administer a schedule II controlled substance. DEA has considered these comments and has concluded a second proposal will be published in the *Federal Register*. This announcement will propose to amend the use of emergency provisions under 21 CFR 1306.11, taking into consideration the unique situation between pharmacies and LTCF patients.

Section 1306.13 Partial Filling of Prescriptions (Schedule II)

A large majority of comments supported the proposed allowance of partial filling of Schedule II controlled substances for hospice and home care patients that have a terminally ill medical diagnosis. However, they objected to the 15-day limitation on partial dispensing under those circumstances and for LTCF patients and would prefer to have the amount to be partially dispensed left to the discretion of the pharmacist and the patient. Some also commented that the 15-day limitation would add unnecessary visits to the pharmacy and would actually increase patient cost. The intent of this proposal was not to place any restriction on partial filling of Schedule II prescriptions for LTCF patients, but to reduce the quantity of controlled substances which may be in the home or in the hospice of terminally ill patients. In considering the comments, DEA finds that by encouraging the use of partial filling, the objective of reducing large quantities of drugs from being stored where the patient resides stands to be achieved.

Therefore, the 15-day limitation has been deleted from the final rule.

Four comments were received which sought to broaden partial filling to include not only LTCF and terminally ill patients, but also patients with severe intractable pain regardless of diagnosis. DEA finds no merit in broadening the partial filling of Schedule II controlled substances beyond LTCFs and terminally ill patients and considers the issue of intractable pain to be separate and apart from prescribing to the terminally ill. A partial filling to other than an LTCF or terminally ill patient constitutes a violation of the Controlled Substances Act. DEA has further amended the regulation by requiring the pharmacist to record on the prescription whether the patient is terminally ill or is an LTCF patient. This will differentiate those prescriptions which are authorized for partial filling from the pharmacy's regular prescriptions.

One comment addressed partial filling and whether a new prescription is required when the physician changes only the initial directions for use, e.g., a prescription is authorized for 200 Percodan to be taken four times a day, and a week later the physician changes the directions for use to six tablets a day. This would not require a new prescription. The pharmacist merely is required to amend the directions for use on the original prescription and continue dispensing under that prescription until the 200 tablet quantity is reached. The pharmacist may not dispense beyond the original quantity prescribed without a new prescription.

Several comments were received objecting to the language of 21 CFR 1306.13(c) as being vague, confusing, unnecessary, and causing an additional recordkeeping burden on the pharmacist. Two comments suggested that this section be deleted since there is an initial procedure of review to assure that the schedule of use of the controlled substance is consistent with the prescribing practitioner's directions. The purpose of this section was to cause the pharmacist to check with the patient or with the LTCF prior to automatically dispensing another partial refill to ensure that the quantities previously dispensed have been administered and that there is justification for the continued use of the controlled substance. DEA has considered the comments and has rephrased the regulation to clarify its intent by deleting the proposed § 1306.13(c) and incorporating into § 1306.13(b) a requirement for the pharmacist to confirm that additional partial fillings are necessary prior to dispensing to a

LTCF patient or to a terminally ill hospice or home-care patient.

General Comments

The amendments will not require any additional paperwork or recordkeeping burden beyond normal business practices and are intended to clarify the present requirements and to extend partial filling of Schedule II controlled substances to hospice and homecare for the terminally ill.

The Deputy Assistant Administrator, Office of Diversion Control, hereby certifies that this final rule will not have significant impact upon entities whose interest must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The changes will not impose any additional regulatory requirements. They will revise the method by which certain Schedule II controlled substance prescriptions are handled and will allow a smaller quantity of controlled substances to be dispensed to authorized patients. The final rule is not a major rule for the purposes of Executive Order (E.O.) 12291 of February 17, 1981. Pursuant to section 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this final rule has been submitted for review to the Office of Management and Budget.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

List of Subject in 21 CFR Part 1306

Drug Enforcement Administration, Drug traffic control, Prescription drugs.

For reasons set out above, 21 CFR part 1306 is amended as follows:

PART 1306—[AMENDED]

1. The authority citation for part 1306 continues to read as follows:

Authority: 21 U.S.C. 821, 829, 871(b) unless otherwise noted.

2. Section 1306.05 is amended by revising paragraph (a) to read as follows:

§ 1306.05 Manner of issuance of prescriptions.

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner. A practitioner may sign a

prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by these regulations.

3. Section 1306.13 is amended by revising paragraph (b) and the introductory text of paragraph (c) and paragraph (c)(1) to read as follows:

§ 1306.13 Partial filling of prescriptions.

(b) A prescription for a Schedule II controlled substance written for a patient in a Long Term Care Facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist must contract the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record on the prescription whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of the Act. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in a LTCF or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 60 days

from the issue date unless sooner terminated by the discontinuance of medication.

(c) Information pertaining to current Schedule II prescriptions for patients in a LTCF or for patients with a medical diagnosis documenting a terminal illness may be maintained in a computerized system if this system has the capability to permit:

Output (display or printout) of the original prescription number, date of issue, identification of prescribing individual practitioner, identification of patient, address of the LTCF or address of the hospital or residence of the patient, identification of medication authorized (to include dosage, form, strength and quantity), listing of the partial fillings that have been dispensed under each prescription and the information required in § 1306.13(b).

Dated: March 11, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Drug Enforcement Administration.

[FR Doc. 91-12730 Filed 5-31-91; 8:45 am]

BILLING CODE 4410-09-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 521

Implementation of the Program Fraud Civil Remedies Act

AGENCY: United States Information Agency.

ACTION: Final regulations.

SUMMARY: The U.S. Information Agency is promulgating as a final rule regulations to implement the Program Fraud Civil Remedies Act of 1986. These final regulations establish administrative procedures for imposing the statutorily authorized civil penalties and assessments against any person who makes, submits, or presents or causes to be made, submitted or presented a false, fictitious or fraudulent claim or written statement to the U.S. Information Agency.

EFFECTIVE DATE: May 16, 1991.

FOR FURTHER INFORMATION CONTACT: Richard S. Werksman, Assistant General Counsel, Office of the General Counsel, room 700, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, (202) 619-6975.

SUPPLEMENTARY INFORMATION: The Program Fraud Civil Remedies Act established a new administrative remedy for imposing civil penalties and assessments against any person who

makes a false claim or false written statement to the Federal Government in an amount less than \$150,000. This remedy applies to any person who knowingly submits or causes to be submitted a false claim or statement to the Federal Government. The statute requires Federal agencies to follow certain procedures to recover penalties and assessments against persons who file false claims or statements. It provides for designated investigative and reviewing officials, an administrative hearing process, and an agency appeal procedure with limited judicial review. The President's Council on Integrity and Efficiency developed draft model regulations in order to promote uniformity in implementing the new procedure. These regulations are based on the Council's draft.

The U.S. Information Agency published a notice of proposed rulemaking on this subject in the Federal Register on February 6, 1991 [56 FR 4761]. No comments were received, and the final rule contains no changes from the proposed rule.

Consistent with the statute's requirements, the U.S. Information Agency's final regulations provide that the Office of Inspector General will act as the Investigating Official; the Office of General Counsel will act as the Reviewing Official; an administrative law judge will be the Presiding Official; and the Director of the U.S. Information Agency will act as the Authority Head on appeals.

The new administrative process should serve to deter the submission of false claims and statements and provide USIA with an effective remedy against persons submitting such false claims to the Agency.

The final rule will have no direct effect on the economy, or on Federal or State expenditures, and thus does not constitute a "major rule" within the meaning of section 1(b) of Executive Order 12291. As a result, we have concluded that an initial regulatory impact analysis is not required. Nor do the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b) apply. The final rules contain no information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1978, and fall within the exceptions to coverage.

Lists of Subjects in 22 CFR Part 521

Administrative practice and procedure, Claims, Fraud, Penalties.

Accordingly, Title 22 CFR Chapter V, is amended to add Part 521 to read as follows:

PART 521—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT

Sec.

- 521.1 Basis and Purpose.
- 521.2 Definitions.
- 521.3 Basis for civil penalties and assessments.
- 521.4 Investigation.
- 521.5 Review by the reviewing official.
- 521.6 Prerequisites for issuing a complaint.
- 521.7 Complaint.
- 521.8 Service of complaint.
- 521.9 Answer.
- 521.10 Default upon failure to file an answer.
- 521.11 Referral of complaint and answer to the ALJ.
- 521.12 Notice of hearing.
- 521.13 Parties to the hearing.
- 521.14 Separation of functions.
- 521.15 Ex parte contacts.
- 521.16 Disqualifications of reviewing official or ALJ.
- 521.17 Rights of parties.
- 521.18 Authority of the ALJ.
- 521.19 Prehearing conferences.
- 521.20 Disclosure of documents.
- 521.21 Discovery.
- 521.22 Exchange of witness lists, statements and exhibits.
- 521.23 Subpoenas for attendance at hearing.
- 521.24 Protective order.
- 521.25 Fees.
- 521.26 Form, filing and service of papers.
- 521.27 Computation of time.
- 521.28 Motions.
- 521.29 Sanctions.
- 521.30 The hearing and burden of proof.
- 521.31 Determining the amount of penalties and assessments.
- 521.32 Location of hearing.
- 521.33 Witnesses.
- 521.34 Evidence.
- 521.35 The record.
- 521.36 Post-hearing briefs.
- 521.37 Initial decision.
- 521.38 Reconsideration of initial decision.
- 521.39 Appeal to the USIA Director.
- 521.40 Stays ordered by the Department of Justice.
- 521.41 Stay pending appeal.
- 521.42 Judicial review.
- 521.43 Collection of civil penalties and assessments.
- 521.44 Right to administrative offset.
- 521.45 Deposit in Treasury of United States.
- 521.46 Compromise or settlement.
- 521.47 Limitations.

Authority: 22 U.S.C. 2658; 31 U.S.C. 3801-3812.

§ 521.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Public Law 99-509, sections 6101-6104, 100 Stat. 1874 (October 21, 1986), codified at 31 U.S.C. 3801-3812. The Act requires each authority head to promulgate regulations necessary to implement the provisions of the statute (31 U.S.C. 3809).

(b) *Purpose.*

(1) This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to the United States Information Agency or to its agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

(c) *Special considerations abroad.*

Where a party, witness or material evidence in a proceeding under these regulations is located abroad, the investigating official, reviewing official or ALJ, as the case may be, may adjust the provisions below for service, filing of documents, time limitations, and related matters to meet special problems arising out of that location.

§ 521.2 Definitions.

ALJ means an Administrative Law Judge in USIA appointed pursuant to 5 U.S.C. 3105 or detailed to USIA pursuant to 5 U.S.C. 3344.

Benefit means, in the context of "statement," anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim means any request, demand, or submission—

(1) Made to USIA for property, services or money (including money representing grants, loans, insurance or benefits);

(2) Made to a recipient of property, services or money from USIA, or to a party to a contract with USIA—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to USIA which has the effect of decreasing an obligation to pay or account for property, services, or money.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 521.7.

Defendant means any person alleged in a complaint under § 521.7 to be liable for a civil penalty or assessment under § 521.3.

Director means Director of the United States Information Agency.

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 521.10 or § 521.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating Official means the Inspector General for USIA or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

Knows or has reason to know means that a person, with respect to a claim or statement—

(1) Has the actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

Makes, wherever it appears, shall include the terms *presents*, *submits* and *causes to be made*, *presented*, or *submitted*. As the context requires, *making* or *made* shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization and includes the plural of that term.

Representative means an attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States or the District of Columbia or the Commonwealth of Puerto Rico.

Reviewing official means the General Counsel of USIA or his designee who is:

USIA means the United States Information Agency.

(1) Not subject to supervision by, or required to report to, the investigating official;

(2) Not employed in the organizational unit of USIA in which the investigating official is employed; and

(3) Is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for)—

(i) A contract with, or a bid or proposal for a contract with; or
(ii) A grant, loan, or benefit from, USIA, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

USIA means the United States Information Agency.

§ 521.3 Basis for civil penalties and assessments.

(a) *Claims.*

(1) Any person who makes claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;
(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;
(B) Is false, fictitious, or fraudulent as a result of such omission; and
(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed; shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to USIA, a recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of USIA or such recipient or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under

paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim.

(b) *Statement.*

(1) Any person who makes, a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or
(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to USIA when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of USIA.

(c) No proof of specific intent to defraud is required to establish liability under this section.

(d) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 521.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued, and shall identify the records or documents sought;

(2) The investigating official may

designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefore, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 521.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 521.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 521.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 521.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 521.3 of this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

§ 521.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 521.7 only if:

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 521.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 521.3(a) does not exceed \$150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person's claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 521.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 521.8.

(b) The complaint shall state:

(1) Allegations of liability against the defendant including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessment without right to appeal, as provided in § 521.10.

(c) At the same time the reviewing official serves the complaint, he or she

shall serve the defendant with a copy of these regulations.

§ 521.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by rule 4(d) of the Federal Rules of Civil Procedure. Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by:

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or the defendant's representative.

(4) In case of service abroad authenticated in accordance with the Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters.

§ 521.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for a hearing.

(b) In the answer, the defendant:

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided, the defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section. The reviewing official shall file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 521.11. For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an

answer meeting the requirements of paragraph (b) of this section.

§ 521.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 521.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 521.8, a notice that an initial decision will be issued under this section.

(c) If the defendant fails to answer, the ALJ shall assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 521.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 521.38.

(h) The defendant may appeal to the Director the decision denying a motion to reopen by filing a notice of appeal with the Director within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the Director decides the issue.

(i) If the defendant files a timely notice of appeal with the Director, the ALJ shall forward the record of the proceeding to the Director.

(j) The Director shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the Director decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the Director shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the Director decides that the defendant's failure to file a timely answer is not excused, the Director shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the Director issues such decision.

§ 521.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 521.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 521.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Government.

(b) Such notice shall include:

- (1) The tentative time and place, and the nature of the hearing;
- (2) The legal authority and jurisdiction under which the hearing is to be held;
- (3) The matters of fact and law to be asserted;
- (4) A description of the procedures for the conduct of the hearing;
- (5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and
- (6) Such other matters as the ALJ deems appropriate.

§ 521.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and USIA.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 521.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of USIA who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case:

- (1) Participate in the hearing as the ALJ;
- (2) Participate or advise in the initial decision or the review of the initial decision by the Director, except as a witness or representative in public proceedings; or
- (3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to, the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in USIA, including in the offices of either the investigating official or the reviewing official.

§ 521.15 Ex Parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 521.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that the reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the Director may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 521.17 Rights of parties.

Except as otherwise limited by this part, all parties may:

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 521.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ may:

(1) Set and change the date, time and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas to be served within the United States requiring the attendance of witnesses and the production of documents at depositions or at hearings. Subpoenas to be served outside the jurisdiction of the United States shall state on their face the authority therefore;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and time of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to find treaties and other

international agreements or Federal Statutes or regulations invalid.

§ 521.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

- (1) Simplification of the issues;
- (2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;
- (3) Stipulations and admissions of fact or as to the contents and authenticity of documents;
- (4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ shall issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 521.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 521.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 521.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the document subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 521.9.

§ 521.21 Discovery.

(a) The following types of discovery are authorized:

- (1) Requests for production of documents for inspection and copying;
- (2) Requests for admissions of the authenticity of any relevant document or the truth of any relevant fact;
- (3) Written interrogatories; and
- (4) Depositions.

(b) For the purpose of this section and § 521.22 and § 521.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for Discovery.*

(1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service a party may file an opposition to the motion and/or a motion for protective order as provided § 521.24.

(3) The ALJ may grant a motion for discovery only if the ALJ finds that the discovery sought:

- (i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;
- (ii) Is not unduly costly or burdensome;
- (iii) Will not unduly delay the proceeding; and
- (iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 521.24.

(e) *Deposition.*

(1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and

place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 521.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 521.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 521.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above, unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 521.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such

request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 521.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 521.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or, with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) That the discovery not be had;
- (2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) That the discovery may be had only through a method of discovery other than that requested;
- (4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;
- (5) That discovery be conducted with no one present except persons designated by the ALJ;
- (6) That the contents of discovery or evidence be sealed;
- (7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 521.25 Fees.

The party requesting a subpoena shall pay the cost of the fee and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in the United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of USIA, a check for witness fees and mileage need not accompany the subpoena.

§ 521.26 Form, filing and service of papers.

(a) Form.

(1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena), and shall be in English or accompanied by an English translation.

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of, the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) Service.

A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 521.8, shall be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid, and addressed to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) Proof of Service.

A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 521.27 Computation of time.

(a) In computing any period of time under this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government shall be excluded from the computation.

(c) Where a document has been served or issued by placing it in the mail, an additional five days will be added to the time permitted for any response.

§ 521.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 521.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for:

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 521.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 521.3, and if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) USIA shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 521.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the Director, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the Director in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees of agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding, to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the Director from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 521.32 Location of hearing.

(a) The hearing may be held:

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present arguments with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 521.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 521.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to

(1) Make the interrogation and presentation effective for the ascertainment of the truth,

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of:

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or

designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 521.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided in this part, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence, where appropriate (e.g., to exclude unreliable evidence).

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by consideration of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 521.24.

§ 521.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the Director.

(c) The record of the hearing may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 521.24.

§ 521.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing briefs, at a time not exceeding 60 days from the date the parties receive the transcript of

the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 521.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portion thereof, violate § 521.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments, considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 521.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the Director. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the Director, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the Director and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 521.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision

that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration, the initial decision shall constitute the final decision of the Director and shall be final and binding on the parties 30 days after the ALJ denies the motion, unless the initial decision is timely appealed to the Director in accordance with § 521.39.

(g) If the ALJ issues a revised initial decision, that decision shall constitute the final decision of the Director and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the Director in accordance with § 521.39.

§ 521.39 Appeal to the USIA Director.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the USIA Director by filing a notice of appeal with the USIA Director in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 521.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal may be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The Director may extend the initial 30-day period for an additional 30 days if the defendant files with the Director a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the Director, and the time for filing motions for reconsideration under § 521.38 has expired, the ALJ shall forward the record of the proceeding to the Director.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decisions and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the Director.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the Director shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Director that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the Director shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The Director may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the ALJ in an initial decision.

(k) The Director shall promptly serve each party to the appeal with a copy of her/his decision and a statement describing the right of any person determined to be liable for a penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Director serves the defendant with a copy of her/his decision, a determination that a defendant is liable under § 521.3 is final and is not subject to judicial review.

§ 521.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Director a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Director shall stay the process immediately. The Director may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 521.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Director.

(b) No administrative stay is available following a final decision of the Director.

§ 521.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Director imposing penalties or assessments

under this part and specifies the procedures for such.

§ 521.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 521.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 521.42 or § 521.43, or any amount agreed upon in a compromise or settlement under § 521.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under the subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 521.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 521.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The Director has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during pendency of any review under § 521.42 or during the pendency of any action to collect penalties and assessments under § 521.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 521.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the Director, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Director, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 521.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 521.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 521.10(b) shall be deemed notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Dated: May 21, 1991.

Henry E. Catto,

Director, U.S. Information Agency.

[FR Doc. 91-12948 Filed 5-31-91; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 840, and 842

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Compliance With Court Order

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of suspension.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) is suspending certain portions of its permanent program regulations which: (1) Provide that a regulatory authority may terminate regulatory jurisdiction under the Surface Mining Control and Reclamation Act of 1977 (the Act) for reclaimed sites of completed surface coal mining and reclamation operations and coal exploration operations; and (2) allow for a reduced inspection frequency for "abandoned sites." OSM is taking these actions as a result of a recent District Court decision which remands these rules to the Secretary of the DOI because the court has found these rules contrary to the language and intent of the Act.

EFFECTIVE DATE: July 3, 1991.

FOR FURTHER INFORMATION CONTACT: George M. Stone, Jr., Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; telephone (202) 208-2550 (Commercial) or 268-2550 (FTS).

SUPPLEMENTARY INFORMATION:

I. Background.

II. Discussion of Rules Suspended.

III. Procedural Matters.

I. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), sets forth general regulatory requirements governing surface coal mining and reclamation operations. OSM has, by regulation, implemented or clarified many of the general requirements of the Act by setting forth specific requirements to be implemented by regulatory authorities in their regulation of surface coal mining operations. See 30 CFR chapter VII.

On November 2, 1988, OSM promulgated the termination of jurisdiction rule at 30 CFR 700.11(d) (53 FR 44356) to set forth the circumstances under which regulatory jurisdiction could be terminated over the sites of reclaimed surface coal mining and reclamation operations. The general procedure among State regulatory authorities has been to terminate regulatory jurisdiction upon the final release of a performance bond for a completed surface coal mining and reclamation operation or, where no bond was required, upon a finding that all reclamation had been successfully completed. OSM had decided to codify this long standing practice, and thereby establish a uniform standard, to clarify for regulatory authorities, the coal industry, and the public, the point in time at which regulatory jurisdiction could be terminated and the circumstances and methods under which a regulatory authority must reassert jurisdiction, and the standard OSM would use to review such terminations.

Also, on June 30, 1988, OSM promulgated rules at 30 CFR 840.11 (g) and (h) 842.11 (e) and (f) concerning inspection frequency requirements for abandoned sites of surface coal mining operations. OSM had concluded that repeated inspections at abandoned sites were an ineffective expenditure of resources, and that a reduced inspection frequency would not result in increased harm to the environment or reduce the likelihood of compliance.

Both of these rules were challenged in Federal District Court. On August 30, 1990, Judge Thomas A. Flannery of the United States District Court for the District of Columbia issued an order in the case of *National Wildlife Federation, et al., v. Manuel Lujan, Jr., et al.*, No. 88-3345, D.D.C. August 30, 1990, (*NWF, et al. v. Lujan, et al.*). The court rules on seven consolidated cases in which environmental and industry plaintiffs separately asked the court to strike down certain regulations promulgated under the Act by OSM. Among other matters, the court ruled in favor of the environmental plaintiffs'

challenge the rules on termination of jurisdiction and inspection of abandoned sites.

This suspension notice is being published in accordance with the court's order. It is not intended to affect any appeal of the court's decision concerning the affected regulations. The purpose of this notice is to implement the Federal court's order and is not intended to be an endorsement of the district court's decision which may be challenged in an appeal.

Although it affects the Code of Federal Regulations, this suspension notice is an interpretive statement which describes how the Secretary is already implementing the court's decision. Even in the absence of this notice, the Secretary's actions must be consistent with the Act as interpreted by the court. The Secretary may not implement regulations that are inconsistent with the Act. In order to update the Code of Federal Regulations to reflect the District Court's interpretation, OSM intends to propose revisions to the remanded rules consistent with the court's opinions.

II. Discussion of Rules Suspended

Termination of Jurisdiction

Section 700.11(d) Applicability.

On November 2, 1988, OSM promulgated the termination of jurisdiction rule to explain under what circumstances a regulatory authority may terminate jurisdiction over a surface coal mining and reclamation operation, the circumstances and methods under which a regulatory authority must reassert jurisdiction, and the standard OSM would use to review such terminations. The final rule specified that a reclaimed site of a surface coal mining and reclamation operation, or increment thereof, or of a coal exploration operation may no longer be subject to regulatory jurisdiction under either a Federal or State regulatory program when all reclamation requirements of the regulatory program had been successfully completed, the period of extended liability for revegetation had expired, and final release of the performance bond, if any, had occurred.

Section 700.11(d)(1)(i) provided that if the regulatory authority determined in writing that all requirements imposed under the initial program regulations at 30 CFR chapter VII, subchapter B had been successfully completed, the regulatory authority may terminate its jurisdiction under the regulatory program over reclaimed sites at initial program surface coal mining and reclamation operations.

Section 700.11(d)(1)(ii) provided that a regulatory authority may terminate its jurisdiction under the regulatory program over the reclaimed site of a permanent program surface coal mining and reclamation operation, or increment thereof, or of a coal exploration site, if the regulatory authority determined in writing that all requirements imposed under the applicable regulatory program had been successfully completed, or where a performance bond was required, final release of the bond had occurred.

Paragraph 700.11(d)(2) defined the circumstances that would require a State regulatory authority to reassert jurisdiction over a site of a surface coal mining and reclamation operation because a prior termination of jurisdiction was found to be the result of fraud, collusion, or a misrepresentation of a material fact.

In the case of *NWF, et al. v. Lujan, et al.*, the District Court determined that the language of sections 521 (a)(1) and (a)(2) of the Act imposes "an ongoing duty upon the Secretary to correct violations of the Act. This appears to be without limitation." The court ruled that this enforcement authority and obligation never ends at a site where a surface coal mining and reclamation operation has occurred. The court, therefore, struck down the rule at 30 CFR 700.11(d).

In compliance with the court order, the regulatory provision for termination of jurisdiction at 30 CFR 700.11(d) is suspended.

Abandoned Sites

The second rule challenged by the environmental plaintiffs in the case of *NWF, et al. v. Lujan, et al.*, was the abandoned sites rule (53 FR 24872, dated June 30, 1988), specifically those sections of the rule that allow regulatory authorities to establish alternative inspection frequencies for abandoned sites at 840.11(h) and 842.11(f). Although the definition of abandoned sites was not subject to the court challenge, the court has ordered that inspection frequencies at abandoned sites and the definition of abandoned sites at 30 CFR 840.11(g) and 842.11(e) (as it relates to inspection frequencies) be remanded to the Secretary. Discussed below are those sections of the rule which are being suspended in whole or in part.

Section 840.11/842.11 Inspections by State regulatory authority/Federal inspections and monitoring.

On June 30, 1988, OSM amended its rules concerning inspections by State regulatory authorities at 30 CFR 840.11

by adding new paragraphs (g) and (h). The rules governing Federal inspections and monitoring at 30 CFR 842.11 were amended by adding new paragraphs (e) and (f) (53 FR 24872). This rulemaking added to the inspection requirements a definition of "abandoned sites" and allowed for inspection of these sites "as necessary to monitor environmental conditions or changes of status." For a site to have qualified as abandoned under the definition of an abandoned site, the regulatory authority must have made a written finding that surface mining and reclamation activities had ceased, and that specified enforcement measures had been taken. For an abandoned site to have qualified for a reduced inspection frequency the regulatory authority must have also evaluated the site and documented in writing both the inspection frequency necessary to comply with the rule and the reasons for selecting that frequency. The regulatory authority would then be required to inspect the site at the new frequency level selected.

In its August 30, 1990, decision, the court remanded the rule to the Secretary, with respect to the statutory inspection frequency requirement for abandoned sites at 30 CFR 840.11 (g) and (h) and 842.11 (e) and (f). The court recognized that while reducing the inspection frequency on abandoned mine sites makes sense, it conflicts with the plain language of section 517(c) of the Act which provides for inspections by the regulatory authority on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit. Accordingly, to comply with the court order, OSM is suspending the regulatory provisions for inspections of abandoned sites at 30 CFR 840.11(h) and 842.11(f), and the definition of abandoned sites at 30 CFR 840.11(g) and 842.11(e) insofar as the definition relates to inspection frequencies at abandoned sites.

OSM has decided not to suspend the definition of abandoned sites beyond the scope of the court remand for two reasons. First, the definition of abandoned sites at 30 CFR 840.11(g) and 842.11(e) is an integral part of a State regulatory authority's good cause showing for not taking action in response to a ten-day notice (53 FR 26740, dated July 14, 1988). Under section 521(a)(1), if an authorized representative of the Secretary of the Interior has reason to believe that a person is in violation of the Act he must

notify the State regulatory authority (SRA) in the primacy state. The SRA is given ten days after notification to take appropriate action to cause the said violation to be corrected, or show good cause for failing to take appropriate action. The authorized representative shall then determine in writing whether the standards for appropriate action or good cause for such failure have been met. Under 30 CFR 842.11(b)(1)(ii)(B)(2) an action or response by an SRA that is not arbitrary, capricious, or an abuse of discretion under the State program shall be considered appropriate action to cause a violation to be corrected or good cause for failure to do so. When reviewing the SRA response to a ten-day notice, the authorized representative (and Deputy Director of OSM when the SRA requests an informal review) shall consider good cause for failure to take action, as enumerated in 30 CFR 842.11(b)(1)(ii)(B)(4)(v), "with regard to abandoned sites as defined in section 840.11(g) of this chapter, the State regulatory authority is diligently pursuing or has exhausted all appropriate enforcement provisions of the State program."

The second reason why OSM has decided not to suspend the definition is its function in 30 CFR 843.22 which delineates authority for enforcement actions under Federal programs. 30 CFR section 843.22 authorizes OSM to "refrain from issuing a notice of violation or cessation order for a violation at an abandoned site, as defined in section 842.11(e) of this chapter, if abatement of the violation is required under any previously issued notice or order." (emphasis added). The purpose of this section is to save the regulatory authority the time and expense involved in issuing redundant enforcement actions, and assessing uncollectible civil penalties for violations which are already covered by existing citations.

Therefore, since OSM has determined that these sections defining abandoned sites have a bearing on the enforcement mechanism of Federal and State regulatory programs other than inspection frequencies at abandoned sites, sections 30 CFR 840.11(g) and 842.11(e) are not being suspended in their entirety.

III. Procedural Matters

Administrative Procedure Act

This document is an interpretive statement not subject to 5 U.S.C. 553(b) of the Administrative Procedure Act.

Also, good cause exists under 5 U.S.C. 553(b) to issue this document without advance notice and comment. Publication of this notice will avoid further delay in informing the public concerning OSM's implementation of the court's direction to implement the statutory frequency of inspections and not to allow termination of jurisdiction under section 521.

Effect in Federal Program States and on Indian Lands

The final suspension notice applies through cross-referencing in those States with Federal programs and on Indian lands. The States with Federal programs are California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The Indian lands program appears at 30 CFR parts 750.

Effect on State Programs

OSM will evaluate permanent State regulatory programs approved under section 503 of the Act to determine whether any changes in these programs will be necessary. If the Director determines that certain State provisions should be amended in order to be made no less effective than the Federal rules, the individual States will be notified in accordance with the provisions of 30 CFR 732.17.

Executive Order 12291

The DOI has examined this suspension notice according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. The promulgation in 1988 of the rules being suspended was not a major action and for the same reasons, neither is this suspension.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the suspension will not have significant economic impact for the same reasons that promulgation of the rules in 1988 did not have such an impact.

Federal Paperwork Reduction Act

This suspension notice does not contain collections of information which require approval by the Office of Management and Budget (OMB) under

44 U.S.C. 3501 *et seq.* The information collection requirement contained in 30 CFR 700.11(d), which was previously approved by OMB, is being suspended.

National Environmental Policy Act

The effect of the regulations being suspended by this notice is covered in two Environmental Assessments (EAs) prepared by the DOI. These are the EAs prepared prior to promulgation of the November 2, 1988, final rule at 30 CFR 700.11(d) (referenced at 53 FR 44356) and promulgation of the June 30, 1988, final rule at 30 CFR 840.11 (g) and (h), 30 CFR 842.11 (e) and (f), and 30 CFR 843.11 (referenced at 53 FR 24872). These documents are on file at the OSM Administrative Record, room 5131, 1100 L Street NW., Washington, DC 20240.

Authors

The authors of this suspension notice are Kathleen M. Parry and John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone (202) 208-2550 (Commercial) or 268-2550 (FTS).

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 840

Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 842

Law Enforcement, Surface Mining, Underground mining.

Accordingly, 30 CFR parts 700, 840, and 842 are amended as set forth below:

Dated: May 28, 1991.

David O'Neal,

Assistant Secretary, Land and Minerals Management.

SUBCHAPTER A—GENERAL

PART 700—GENERAL

1. The authority citation for part 700 continues to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*), and Pub. L. 100-34.

§ 700.11 Applicability.

2. Paragraph (d) of § 700.11 is suspended.

SUBCHAPTER L—PERMANENT PROGRAM INSPECTION AND ENFORCEMENT PROCEDURES

PART 840—STATE REGULATORY AUTHORITY: INSPECTION AND ENFORCEMENT

3. The authority citation for part 840 continues to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, and Pub. L. 100-34, unless otherwise noted.

§ 840.11 Inspections by State regulatory authority.

4. Paragraph (g) of § 840.11 is suspended insofar as it authorizes reduced inspection frequencies at abandoned sites, and paragraph (h) of § 840.11 is suspended.

PART 842—FEDERAL INSPECTIONS AND MONITORING

5. The authority citation for part 842 continues to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, and Pub. L. 100-34, unless otherwise noted.

§ 842.11 Federal inspections and monitoring.

6. Paragraph (e) of § 842.11 is suspended insofar as it authorizes reduced inspection frequencies at abandoned sites, and paragraph (f) of § 842.11 is suspended.

[FR Doc. 91-12978 Filed 5-31-91; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010-R]

Payment Method for Health Care Services Under the Supplemental Health Care Program for Active Duty Members of the Uniformed Services; Adoption of CHAMPUS Procedures

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule amendment.

SUMMARY: On May 24, 1991 (56 FR 23800), the Department of Defense published a final rule on "Payment Method for Health Care Services Under the Supplemental Health Care Program for Active Duty Members of the Uniformed Services" concerning discharges occurring on or after June 24, 1991. Through an administrative error the effective date for the regulation should have been June 24, 1991, instead

of May 24, 1991. This document is published to suspend the regulation.

EFFECTIVE DATE: The suspension is effective June 3, 1991, until June 24, 1991.

ADDRESSES: Office of the Assistant Secretary of Defense (Health Affairs), Health Services Financing, room 1B657, Pentagon, Washington, DC 20301-1200.

FOR FURTHER INFORMATION CONTACT: Lt Col Ray Kincy, USAF, telephone (703) 697-8975.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 199

Claims, Health insurance, Military personnel.

For reasons set forth in the preamble, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086; 5 U.S.C. 301.

§ 199.6 [Amended]

2. Section 199.6 is amended by suspending paragraph (a)(9) until June 24, 1991.

§ 199.16 [Amended]

3. Section 199.16 is suspended until June 24, 1991.

Dated: May 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13034 Filed 5-31-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

32 CFR Part 552

Physical Security of Arms, Ammunition, and Explosives—Fort Lewis, WA

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This part establishes the criteria for possessing, carrying, concealing, and transporting, firearms and/or other deadly or dangerous weapons and instruments on Fort Lewis. This regulation is applicable to all persons, both military and civilian, who are residents, on, work on, or who otherwise enter Fort Lewis Military Reservation for any reason.

EFFECTIVE DATE: June 3, 1991.

FOR FURTHER INFORMATION CONTACT: 2LT Jeffrey C. Torres, Headquarters I Corps, Fort Lewis, ATTN: AFZH-JA,

Fort Lewis, WA 98433-5000, (202) 967-4601 or 5069.

SUPPLEMENTARY INFORMATION: This regulation is punitive in nature. Violations of the provisions of this regulation are subject to disciplinary actions under the Uniform Code of Military Justice or administrative judicial actions authorized by pertinent state and/or Federal law. Regulations referenced or cited in this part may be reviewed at the Office of the Judge Advocate General or the Office of the Provost Marshall, Fort Lewis, Washington.

Executive Order

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as nonmajor. The effect of the final rule on the economy will be less than \$100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 552—Subpart I

Ammunition, firearms, guns, weapons, munitions.

1. The authority citation for 32 CFR part 552 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 3012, 15 U.S.C. 1601; 18 U.S.C. 1382; 31 U.S.C. 71; 40 U.S.C. 258a; 41 U.S.C. 14; 50 U.S.C. 797.

2. 32 CFR part 552, Subpart I is added to read:

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Subpart I—Physical Security of Arms, Ammunition, and Explosives—Fort Lewis

Sec.

- 552.112 Purpose.
- 552.113 References.
- 552.114 Violations.
- 552.115 Applicability.
- 552.116 Privately owned weapons—security.
- 552.117 Disposition of Commander's Letter of Authorization.
- 552.118 Issuance from unit arms rooms.

Sec.

- 552.119 Registration and storage.
- 552.120 Possession and control.
- 552.121 Possession or retention of prohibited weapons.
- 552.122 Personnel not authorized to possess or retain personal weapons.
- 552.123 Storage of personal weapons other than firearms or handguns.
- 552.124 Transportation of privately owned weapons and ammunition.
- 552.125 Disposition of confiscated weapons.

Subpart I—Physical Security of Arms, Ammunition, and Explosives—Fort Lewis, Washington

§ 552.112 Purpose.

To provide enhanced security for the protection of arms, ammunition, explosives (AA&E) and sensitive items at Fort Lewis.

§ 552.113 References.

This regulation is to be used in conjunction with the following:

(a) AR-190-11 with Forces Command and Training Command Supplement 1 (Physical Security of Arms, Ammunition and Explosives).

(b) AR 190-13 with Forces Command and Training Command Supplement 1 (The Army Physical Security Program).

(c) Fort Lewis Regulation 210-1 (Installation Fort Lewis Post Regulations).

(d) Headquarters Fort Lewis Form 816 (Registration of Personal Firearms).

§ 552.114 Violations.

Violations of the provisions of this regulation are subject to disciplinary actions under the Uniform Code of Military Justice, judicial action as authorized by state or federal law, or administrative action as provided by controlling regulation.

§ 552.115 Applicability.

This regulation is applicable to all Active Army, Reserve Officer Training Corps (ROTC), U.S. Army Reserve (USAR), and Army National Guard (ARNG) units training and/or assigned/attached to Fort Lewis and its sub-installations. This regulation also applies to tenant units/activities stationed on Fort Lewis. It is also applicable to all persons, both military and civilian, who reside on or who otherwise enter Fort Lewis Military Reservation for whatever reason.

§ 552.116 Privately owned weapons—security.

Privately owned arms and ammunition will be secured in the manner required for military weapons and ammunition but separate from military arms, ammunition, and explosives (AA&E) items.

552.117 Disposition of Commander's Letter of Authorization.

The unit commander's written approval to withdraw privately owned weapons from the unit arms room will be attached to the record of the next weekly arms, ammunition, and explosive (AA&E) inventory. Following is a Sample Request for Authorization to Withdraw Weapon from Arms Room:

Office Symbol _____
Date _____

Memorandum for Commander of unit concerned, Fort Lewis, WA 98433

Subject: Request Authorization to Remove Privately Owned Firearm/Weapon from the Unit Arms Room

1. Request authorization to remove the following firearm/weapon registered in my name from the arms room. The firearm/weapon is a _____ (type) and serial number is _____

2. The firearm/weapon will be removed on _____ (date) and returned on _____ (date).

3. The reason for removal is _____

(Name/rank/unit/signature of individual making request)

Office Symbol 1st End SFC

Jones/mm/telephone CDR, Unit concerned, Fort Lewis, WA 98433

FOR (individual making request plus complete address) Approval is granted. (Signature block of authorizing official)

§ 552.118 Issuance from unit arms room.

When privately owned weapons are withdrawn from the arms room, DA Form 3749 (Equipment Receipt), will be turned in and the weapon will be signed out on Headquarters Fort Lewis Form 938 (Weapons/Ammunition and Sensitive Item Issue and Turn-In Register). The armorer will provide the owner with a copy of Headquarters Fort Lewis Form 816 (Registration of Personal Firearms), which will remain with the weapon at all times. When the weapon is turned back in to the arms room, the HFL Form 816 will be turned in also.

§ 552.119 Registration and storage.

(a) All types of personal weapons to include rifles, shotguns, handguns and antique firearms owned by personnel residing on Fort Lewis Military Reservation will be registered at the Weapons Registration Office, Law Enforcement Command, within 72 hours (three working days) after signing in to his/her permanent unit of assignment. HFL Form 816, Registration of Personal Firearms, will be completed in triplicate. The unit commander is responsible for verifying proof of legal ownership paperwork on all data entered on HFL 816. The Military Police Weapons

Registration Section will retain two copies of the completed registration form and issue one copy to the individual to be retained with the weapon at all times. The Weapons Registration Section will forward one copy of the form to the individual's unit commander. The commander's copy of the registration will be maintained in the unit arms room for personnel storing personal weapons in the unit arms room. When an individual possessing a personal weapon transfers (intra-installation), the losing commander will ensure that HFL Form 816 is forwarded to the gaining commander. The gaining commander will ensure that the individual re-registers the personal weapon within 72 hours (three working days). The commander of 525th Replacement Detachment is responsible for the storage of personal weapons of newly arriving personnel, temporarily assigned to the unit. Personnel residing off post who wish to bring personal weapons on post are also required to register those weapons. Weapons registration forms (HFL 816) will be turned in at the Weapons Registration Section when clearing post. Upon any sale or transfer of a registered weapon, the transaction will be immediately reported within 72 hours (three working days) to the Registration Office. For additional guidance on weapon registration, refer to Fort Lewis Regulation 210-1.

(b) All soldiers are required to inform the unit commander if they are storing privately owned weapons within a 100 mile radius of Fort Lewis. Soldiers residing off-post must inform the unit of the location of the weapon(s). Those weapons must be registered if they are to be brought onto the installation for any type of authorized use.

(c) Privately owned weapons of soldiers residing in the unit billets, Bachelor Enlisted Quarters (BEQ), or Bachelor Officer Quarters (BOQ), will be stored in the assigned unit arms room under the following provisions:

(1) Commanders may authorize their personnel who reside in billets, BEQ or BOQ to store privately owned weapons in the off post quarters of another member of his/her unit or in the quarters of immediate family members residing in the area.

Family members will be considered sponsors for paragraph (b) (2) thru (5) of this section.

(2) A unit member who resides off post may sponsor a maximum of one unit member who resides in billets, BEQ or BOQ for storage of privately owned weapons.

(3) Request to store weapons off post must be submitted in writing to the unit commander, indicating the name, exact address and phone number of the proposed unit sponsor. Request must be accompanied by a written authorization from the sponsor to store the weapons, and a copy of HFL 816. Request must be kept on file in the unit arms room until legal disposition of the weapon is presented to the unit commander.

(4) Civilians (except for immediate family residing in the area) and military dependents will not be considered as sponsors to store privately owned weapons for military members.

(5) Unit commanders have the responsibility to verify the off post location for off post storage requests and ensure that military members comply with both local and state laws governing possession and use of privately owned weapons.

(d) Weapons stored in unit arms rooms may be issued to registered owners only for authorized hunting or participation in authorized target practices or matches. Request for issue of a privately owned weapon from the arms room must be in writing indicating the inclusive dates and times, reasons and serial number of weapon for issue. Weapons stored in the unit arms rooms may not be issued to anyone other than the registered owner.

(e) Properly registered privately owned weapons may be kept at the owners assigned government family quarters if approved in writing by the unit commander. One copy of the completed HFL Form 816 will be maintained on file in the unit arms room. Intra-post transfer rules as stated in paragraph (a) of this section apply.

(f) Privately owned weapons with a maximum of 100 rounds of ammunition (per weapon) may be stored in the unit arms room. Weapons and ammunition will be stored separately. The owner of a privately owned weapon will be issued a hand receipt when the weapon and/or ammunition is turned in to the arms room. The owner will return the hand receipt when the weapon and/or ammunition is removed from the arms room for any reason.

(g) Weapons cancellation and installation clearance will be as follows:

(1) Commander will ensure that privately owned weapons registered with Weapons Registration Section are de-registered during the outprocessing or when legally disposed of.

(2) Individuals who register a privately owned weapon and legally dispose of the weapon while it is still

registered will surrender the registration certificate to the Weapons Registration Section at the time of disposal along with appropriate disposition documents.

§ 552.120 Possession and control.

(a) Possession of weapons on the post by civilians is prohibited with the following exceptions:

(1) Engaged in authorized hunting.

(2) Engaged in authorized target practice.

(3) Engaged in authorized and organized shooting matches.

(b) Request for authorization for these exceptions will be submitted in writing to the Commanding General, I Corps and Fort Lewis. Prior coordination for the use of ranges will be made through the Range Control Officer or Range Scheduling. Civilians who fail to comply with this regulation are subject to charges of Trespassing, Unlawful Discharge of a Firearm, and other criminal offenses as applicable.

(c) Military or civilian personnel are not authorized to bring personal weapons into field training sites.

(d) Carrying of concealed privately owned weapons by either military or civilian personnel is prohibited while on the Fort Lewis Military Reservation regardless of whether a state or county permit has been obtained. For the purpose of this regulation, a concealed weapon is any instrument used or designed to be used in an offensive or defensive manner which is carried in such a way as to be hidden from ordinary view. Folding knives with a blade of three inches or less are specifically excluded from this definition. Request to carry concealed weapons will be submitted in writing, with full what and why justification, to the Commanding General, I Corps and Fort Lewis, through appropriate channels.

§ 552.121 Possession or retention of prohibited weapons.

Prohibited weapons are defined as:

(a) Any instrument or weapon of the kind usually known as a sling shot, sand club, metal knuckles, spring blade knife, or any knife from which the blade is automatically released by a spring mechanism or other mechanism or other mechanical device, or any knife having a blade which opens, falls, or is effected into position by force of gravity or an outward thrust or centrifugal movement, or any knife with a blade with a length in excess of three inches. This does not include knives designed for and used during hunting and fishing activities. However, such knives may only be

carried while participating in those activities. The possession of knives kept in quarters and designed for the use in the preparation of food is authorized.

(b) Any incendiary devices, military ammunition and/or explosives.

(c) Any weapons not legally obtained.

(d) Any instrument commonly used in the practice of martial arts, for example, a nunchaku, except during the legitimate martial arts training. If martial arts use is authorized, storage of these instruments during nontraining periods will be in a location other than the arms room, as designed by the unit commander for soldiers residing in troop billets, BEQ or BOQ. Martial arts instruments may be stored in assigned government family quarters during nontraining periods.

(e) Any weapons on which the name of the manufacturer, serial number of identification have been changed, altered, removed or obliterated unless done for legitimate repair or part replacement.

§ 552.122 Personnel not authorized to possess or retain personal weapons.

(a) Possession, retention or storage of personal weapons or ammunition by person(s) described below is prohibited:

(1) Any person who has been convicted in any court of a crime of violence. For the purpose of this regulation, a crime of violence is one in which the use of force or threat of force is an element.

(2) Any person who is a fugitive from justice.

(3) Any person who has been convicted in any court of the possession, use, or sale of marijuana, dangerous or narcotic drugs.

(4) Any person who is presently declared as mentally incompetent or who is presently committed to any mental institution.

(5) Any civilian, or other than a military family member or a law enforcement officer authorized to carry the weapon under state or federal law, while on Fort Lewis or a sub-installation, except while hunting or engaged in authorized target practice or an organized match, unless specifically authorized in writing by the Commanding General, I Corps and Fort Lewis.

(b) Any person under the age of eighteen is prohibited from the use of firearms unless accompanied and supervised by a parent or legal guardian.

(c) Delivery of a personal handgun to persons known to be under the age of twenty-one, persons known to have been convicted of a crime or violence,

persons known to be a drug abuser or under the influence of drugs, persons known to be an alcoholic or currently under the influence of alcohol or a person known to be of unsound mind, is prohibited.

§ 552.123 Storage of personal weapons other than firearms or handguns.

Privately owned weapons, such as knives, swords, air guns, BB guns, cross bows, pellet guns, bow and arrows, of personnel residing the unit billets will be stored in a separate locked container, within a secured storage area designated for this purpose by the unit commander, in a location other than the unit arms room.

§ 552.124 Transportation of privately owned weapons and ammunition.

(a) Privately owned firearms and ammunition will be transported in the following manner:

(1) Weapons, other than weapons being transported into Fort Lewis for the first time, may be carried in vehicles only when traveling to and from an authorized hunting area during hunting seasons or enroute to or from authorized target practice and matches.

(2) The carrying of loaded privately owned weapons in a vehicle is prohibited.

(3) Privately owned weapons carried in a vehicle will be secured in the trunk or encased and carried in such a manner that they will not be readily available to the driver or passenger.

(b) Personnel who remove privately owned weapons from Fort Lewis or sub-installations will comply with applicable Federal, state, and local laws pertaining to the ownership, possession and/or registration of weapons.

§ 552.125 Disposition of confiscated weapons.

Commanders will maintain confiscated weapons in the unit arms room pending final disposition. They will provide written notification of the circumstances or loss or recovery of such weapons and a complete and accurate description of the weapon to Commander, I Corps and Fort Lewis, ATTN: AFZH-PMS-P, Fort Lewis, WA 98433-5000. A copy of this notification will be maintained with the weapon pending final disposition.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-12924 Filed 5-31-91; 8:45 am]

BILLING CODE 3710-08

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD8-91-10]

Special Local Regulations; 1991 LakeFest, Lake Pontchartrain, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: Special local regulations are being adopted for the 1991 LakeFest. This event will be held on June 9, 1991 from 12 p.m. until 3 p.m. on Lake Pontchartrain, La. In case of postponement this event will be held on June 10, 1991 from 12 p.m. until 3 p.m. These regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on June 9, 1991 at 11 a.m. and terminate on June 9, 1991 at 4 p.m. In case of postponement this regulation will take effect on June 10, 1991 at 11 a.m. and terminate on June 10, 1991 at 4 p.m.

FOR FURTHER INFORMATION CONTACT: LT E.N. Eng, Operations Officer, U.S. Coast Guard Group New Orleans, LA (504) 942-3002.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The details of the event were not finalized until May 21, 1991 and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data or arguments. Commentators should include their name and address, identify this notice (CGD8-91-10) and the specific section of the proposal to which the comments apply, and give reasons for comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafter of this regulation is LT Edward N. Eng, Project Officer, Coast Guard Group New Orleans, La. and LT

J.A. Wilson, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The marine event requiring this regulation is called "The 1991 LakeFest." This event is sponsored by the Southern Offshore Racing Association. It will consist of approximately 50-70 race boats traveling in excess of 91 m.p.h. The course followed by the race will be marked by buoys positioned at various points along its several straightaways and turns. The regulated area will encompass the entire race area. Approximately 1,000 spectator boats are expected for the event. While viewing the event at any point outside the regulated area is not prohibited, spectators will be encouraged to congregate within designated spectator areas. These areas will be defined by buoys and are located as follows:

West Spectator Area:

Along the west side of the regulated area between 17th Street Canal and the Causeway.

South Spectator Areas:

- (1) Along the south side of the regulated area between Pontchartrain Beach and New Orleans Lakefront Airport.
- (2) The entire entrance area of Bayou St. John.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the forgoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

(1) The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35 T9110 is added to read as follows:

§ 100.35-T9110 Lake Pontchartrain, Louisiana

(a) *Regulated Area:* The following area will be closed to all vessel traffic: A triangle starting at a point 1.7 statute miles east of the Causeway on the South shore of Lake Pontchartrain near the West End Boat Launch (latitude 30-01.8N, longitude 091-07.0W) along the south shore to a point 2.0 statute miles east of the Lakefront Airport (latitude 30-03.4N, longitude 089.59.3W) then northwesterly 7.5 statute miles to a point near the Bascule Bridge on the Causeway (latitude 30-06.5N, longitude 090-07.0W).

(b) *Special Local Regulation:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol the event.

(1) No spectators shall anchor, block, loiter in or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled, by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. He may terminate the event at any time it is deemed necessary for the protection of life and/or property. He may be reached on VHF-FM Channel 16, when required, by the call sign "PATCOM".

(c) *Effective Dates:* These regulations will be effective from 11 a.m. to 4 p.m. June 9, 1991. In case of postponement due to inclement weather this regulation will take effect on June 10, 1991 at 11 a.m. and terminate at 4 p.m.

Dated: May 23, 1991.

T.D. Fisher,

Captain, U.S. Coast Guard, Commander, Eighth Coast Guard District, Acting.

[FR Doc. 91-13038 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 1 and 3

RIN 2900-AF09

Omnibus Budget Reconciliation Act of 1990: To Implement Provisions of Public Law 101-508

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its general and adjudication regulations concerning the mandatory disclosure of social security numbers, the presumption of total disability at age 65 for pension purposes, the eligibility of remarried surviving spouses or married children for the reinstatement of benefits, pension for

veterans receiving Medicaid-covered nursing home care, plot allowance eligibility, and the headstone or marker allowance. These changes are needed to implement recently enacted legislation. The intended effect of these changes is to bring the regulations into conformance with the new statutory requirements.

EFFECTIVE DATE: These amendments are effective November 1, 1990, except the provisions concerning Medicaid payments (§§ 3.501(i)(3) and 3.551(h)) which are effective November 5, 1990, the date that Public Law 101-508 was signed into law.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Section 8053 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, amended 38 U.S.C. 3001 to authorize the Secretary to require the disclosure of the social security number of any individual, as well as those of his or her dependents, who applies for or is in receipt of compensation or pension benefits. The Secretary has decided to exercise this authority. An individual is not required to furnish VA with a social security number for any person to whom a social security number has not been assigned. VA is amending 38 CFR 1.575(b) to conform with this new statutory requirement.

Section 8002 of Public Law 101-508 amended 28 U.S.C. 502(a) to eliminate the presumption of total disability at age 65 for pension purposes. VA is amending 38 CFR 3.3(a)(3)(v), 3.342(a), and 3.400(d) to conform with this new statutory provision. We are also removing the reference to "vicious habits" in § 3.3(a)(3)(v), as that term no longer appears in the statutory language (38 U.S.C. 521) as amended by Public Law 95-588.

Section 8004 of Public Law 101-508 amended 38 U.S.C. 103 to eliminate the eligibility of remarried surviving spouses and married children for reinstatement of benefits when that marital relationship terminates unless the disqualifying marital relationship was void or was annulled. Similarly, the fact that a surviving spouse of a veteran has terminated a relationship with another person, in which the surviving spouse has held himself or herself out openly to the public as the spouse of that person, has also been eliminated as a basis for the reinstatement of benefits. VA is

amending 38 CFR 3.55, 3.215, 3.400(u), 3.400(v), and 3.400(w) to conform with this new statutory provision.

Section 8003 of Public Law 101-508 amended 38 U.S.C. 3203 to require the reduction of pension benefits to \$90 per month when a veteran, who has neither spouse nor child, is receiving Medicaid-covered nursing home care. This reduction will occur after the month of admission to the nursing home. A veteran is not liable to the United States for any payment of pension in excess of the permitted amount that is paid to or for the veteran by reason of the inability or failure of VA to reduce the pension unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make the reduction. The provisions of this statutory amendment expire on September 30, 1992. VA is amending 38 CFR 3.501 and 3.551 to conform with this new statutory requirement. Inclusion in § 3.501 of a reference to a reduction effective the last day of the month following 60 days after issuance of a prereduction notice required under § 3.103(b) reflects the fact that, under section 8003 of Public Law 101-508, a pensioner may not generally be held liable for any overpayment created by operation of that statute. This action is not intended to imply that provision of a 60-day prereduction notice period creates an entitlement to benefits for that period.

Section 8042 of Public Law 101-508 amended 38 U.S.C. 903(b)(2) to eliminate eligibility for the \$150 plot allowance based solely on wartime service. This change applies to deaths occurring on or after November 1, 1990. VA is amending 38 CFR 3.1600(f)(2) to conform with this new statutory provision.

Section 8041 of Public Law 101-508 amended 38 U.S.C. 906(d) to eliminate the payment of the monetary allowance in lieu of VA-provided headstone or marker for deaths occurring on or after November 1, 1990. VA is amending 38 CFR 3.1612 to conform with this new statutory provision.

VA is issuing a final rule to make the above described amendments. These amendments are necessary to conform regulatory provisions with Public Law 101-508. Because these amendments implement statutory changes, publication as a proposal for public notice and comment is unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, these amendments are not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, these regulatory amendments will not have a significant economic impact on a

substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601-612. These amendments will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of \$100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.104, 64.105, 64.109 and 64.110.

List of Subjects

38 CFR Part 1

Administrative practice and procedure, Claims, Privacy, Security measures.

38 CFR Part 3

Administrative practices and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: April 10, 1991.

Edward J. Derwinski,
Secretary of Veterans Affairs.

PART 1—[AMENDED]

38 CFR part 1, General Provisions, is amended as follows:

1. In § 1.575, paragraph (b) is revised and an authority citation is added at the end of the section to read as follows:

§ 1.575 Social security numbers in veterans' benefits matters.

(b) VA shall require mandatory disclosure of a claimant's or beneficiary's social security number (including the social security number of a dependent of a claimant or beneficiary) on necessary forms as prescribed by the Secretary as a condition precedent to receipt or continuation of receipt of compensation or pension payable under the provisions of chapters 11, 13 and 15 of title 38, United States Code, provided, however, that a claimant shall not be required to furnish VA with a social security number for any person to whom a social security number has not been assigned. VA may also require mandatory disclosure of an applicant's social security number as a condition for

receiving loan guaranty benefits and a social security number or other taxpayer identification number from existing direct and vendee loan borrowers and as a condition precedent to receipt of a VA-guaranteed loan, direct loan or vendee loan, under chapter 37 of title 38, United States Code. (Pub. L. 97-365, sec. 4)

(Authority: 38 U.S.C. 3001)

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is amended as follows:

1. In § 3.3, paragraph (a)(3)(v) is revised to read as follows:

§ 3.3 Pension.

(a) * * *

(3) * * *

(v) Is permanently and totally disabled from nonservice-connected disability not due to the veteran's own willful misconduct; and

(Authority: 38 U.S.C. 502(a))

2. In § 3.55, paragraph (b) introductory text, paragraphs (c) and (d), and paragraph (e) introductory text are amended by removing the words "On and after" where they appear, and adding, in their place, the words "With respect to claims filed prior to November 1, 1990, on and after".

3. In § 3.55, the authority citation appearing at the end of the section is revised to read as follows:

§ 3.55 Terminated marital relationships.

(Authority: 38 U.S.C. 103)

4. Section 3.215 is amended by removing the words "On or after" where they appear, and adding, in their place, the words "With respect to claims filed prior to November 1, 1990, on or after".

5. In § 3.215, the authority citation is revised to read as follows:

§ 3.215 Termination of marital relationship or conduct.

(Authority: 38 U.S.C. 103)

§ 3.342 [Amended]

6. In § 3.342(a), the second and third sentences are removed.

7. In § 3.400, paragraphs (d), (u)(3) and (u)(4), (v)(3) and (v)(4), and (w) are revised to read as follows:

§ 3.400 General.

* * *

(d) Age; surviving spouse 70 (§ 3.208). In other than original claims date of receipt or 70th birthday, whichever is

later, if evidence filed within 1 year after date of request.

(Authority: 38 U.S.C. 502(a))

(u) * * *

(3) *Death*. Date of death if claim is filed within 1 year after that date; otherwise date of receipt of claim. Benefits are not payable for claims filed after October 31, 1990.

(Authority: 38 U.S.C. 103)

(4) *Divorce*. Date the decree became final if claim is filed within 1 year after that date; otherwise date of receipt of claim. Benefits are not payable for claims filed after October 31, 1990.

(Authority: 38 U.S.C. 103)

(v) * * *

(3) *Death*. Date of death if claim is filed within 1 year after that date; otherwise date of receipt of claim. Benefits are not payable for claims filed after October 31, 1990.

(Authority: 38 U.S.C. 103)

(4) *Divorce*. Date the decree became final if claim is filed within 1 year after that date; otherwise date of receipt of claim. Benefits are not payable for claims filed after October 31, 1990.

(Authority: 38 U.S.C. 103)

(w) *Termination of relationship or conduct resulting in restriction on payment of benefits (38 U.S.C. 103(d)(3), 3010(m), effective January 1, 1971; §§ 3.50(b)(2) and 3.55)*. Date of receipt of application filed after termination of relationship and after December 31, 1970. Benefits are not payable for claims filed after October 31, 1990.

(Authority: 38 U.S.C. 103)

8. In § 3.501, paragraph (i)(3) is redesignated as paragraph (i)(4), and a new paragraph (i)(3) is added to read as follows:

§ 3.501 Veterans.

(i) * * *

(3) § 3.551(h). (i) Last day of the calendar month in which Medicaid payments begin, last day of the month following 60 days after issuance of a prereduction notice required under § 3.103(b)(2), or the earliest date on which payment may be reduced without creating an overpayment, whichever date is later; or

(ii) If the veteran willfully conceals information necessary to make the reduction, the last day of the month in which that willful concealment occurred.

(Authority: 38 U.S.C. 3203)

9. In § 3.551, paragraph (h) is added to read as follows:

§ 3.551 Reduction because of hospitalization.

(h) *Certain veterans receiving Medicaid-covered nursing home care*. Effective November 5, 1990, and terminating on September 30, 1992, if a veteran having neither spouse nor child is receiving Medicaid-covered nursing home care, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the month in which the Medicaid payments begin. A veteran is not liable for any pension paid in excess of the \$90 per month by reason of the Secretary's inability or failure to reduce payments, unless that inability or failure is the result of willful concealment by the veteran of information necessary to make that reduction.

(Authority: 38 U.S.C. 3203)

10. In § 3.1600, redesignate paragraphs (f)(2), (f)(3), and (f)(4) as paragraphs (f)(3), (f)(4), and (f)(5), respectively. In the newly redesignated paragraph (f)(3), remove the words "either served during a period of war or". Add a new paragraph (f)(2) to read as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

(f) * * *

(2) The veteran served during a period of war and the conditions set forth in § 3.1604(d)(1)(ii)-(v) (relating to burial in a state veterans' cemetery) are met; or

(Authority: 38 U.S.C. 903(b)(2))

11. In § 3.1612, add paragraph (h) to read as follows:

§ 3.1612 Monetary allowance in lieu of a Government-furnished headstone or marker.

(h) The monetary allowance in lieu of a Government-furnished headstone or marker is not payable if death occurred on or after November 1, 1990.

(Authority: Pub. L. 101-508)

[FR Doc. 91-12992 Filed 5-31-91; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE51

Veterans Education; Procedural Due Process and the Educational Assistance Test Program

AGENCY: Department of Veterans Affairs and Department of Defense.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) has been reviewing regulations for the purpose of improving due process procedures. This final regulation provides that in certain instances if claimants or beneficiaries under the Educational Assistance Test Program can show good cause why they did not comply with the time limits within which they are required to act, those time limits do not apply. These final regulations will provide increased due process to veterans affected by these time limits.

EFFECTIVE DATE: July 3, 1991.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 31193 and 31194 of the *Federal Register* dated August 1, 1990, there was published a notice of intent to amend a regulation in order to provide veterans claiming benefits under the Educational Assistance Test Program with increased due process. Interested people were given 30 days to submit comments, suggestions or objections. VA received no comments, suggestions or objections. Nevertheless, VA is making some changes in the final regulations.

VA proposed a companion rulemaking on pages 37787 through 37801 of the *Federal Register* dated September 28, 1988. This proposal concerned due process for claimants for disability compensation and pension. Like the proposal of August 1, 1990, the September 28, 1988, publication proposed not holding claimants responsible for time limits for perfecting claims if VA did not notify the claimants of those time limits.

VA received several comments on that proposal. As a result of those

comments, VA decided to amend the September 28, 1988, proposal. The amended regulation (38 CFR 3.109) ensures, to the maximum extent practicable, that notice of any time limit within which a claimant or beneficiary must act, to perfect a claim or challenge an adverse VA decision, is effectively communicated to the claimant or beneficiary. Consequently, § 3.109 now permits an extension of time limits when a claimant or beneficiary can show good cause exists for failure to meet the limits.

After further consideration, VA has determined that the reasons for amending § 3.109 also apply to amending the regulations providing due process for our education programs. Consequently, VA has amended § 21.5732 so that it parallels § 3.109. VA is making the amended regulation final.

The Department of Veterans Affairs and the Department of Defense have determined that this final regulatory amendment does not meet the criteria for a major rule as that term is defined by Executive Order 12291, Federal Regulation. The regulatory amendment will not have a \$100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary of Veterans Affairs and the Secretary of Defense have certified that this amended regulation will not have a significant economic impact on the substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by this regulation.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 12, 1991.

Edward J. Derwinski,
Secretary of Veterans Affairs.

Approved: April 18, 1991.

Donald W. Jones,
Deputy Assistant Secretary of Defense
(Military Manpower & Personnel Policy).

PART 21—[AMENDED]

38 CFR part 21, Vocational Rehabilitation and Education, is amended as follows:

In § 21.5732, paragraph (c) is revised to read as follows:

§ 21.5732 Time limits.

(c) *Failure to furnish form or notice of time limit.* (1) VA's failure to furnish any form of information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) Time limits within which claimants or beneficiaries are required to act to perfect a claim or challenge an adverse VA decision may be extended for good cause shown. When an extension is requested after expiration of a time limit, the action required of the claimant or beneficiary must be taken concurrently with or prior to the filing of a request for extension of the time limit, and good cause must be shown as to why the required action could not have been taken during the original time period and could not have been taken sooner that it was. Denials of time limit extensions are separately appealable issues.

(Authority: 38 U.S.C. 3001, 3013)

[FR Doc. 91-12995 Filed 5-31-91; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 142

[WH-FRL 3924-6]

National Primary Drinking Water Regulations Implementation Primary Enforcement Responsibility

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is today promulgating final language for 40 CFR 142.17(a)(2), which concerns EPA's initiation of proceedings that could lead to the withdrawal of State primary enforcement responsibility ("primacy") for the Public Water System Supervision

("PWSS") program under the Safe Drinking Water Act ("SDWA"), 42 U.S.C. 300f et. seq. This final regulation retains the language that was originally adopted in the December 1989 rulemaking.

EFFECTIVE DATE: This final rule will take effect on July 3, 1991. (EPA notes, however, that the language of this final rule is the same as the regulatory language that is currently in effect.) In accordance with 40 CFR 23.7, this regulation shall be considered final Agency action for purposes of judicial review at 1 p.m. eastern time on June 17, 1991.

ADDRESSES: Supporting documents for this rulemaking are available for review during normal business hours at EPA, room 1005 East Tower, 401 M St. SW., Washington, DC 20460; telephone (202) 382-5522.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Act Hotline, toll free (800) 426-4791, or Carl Reeverts, Deputy Director, Enforcement and Program Implementation Division, Office of Ground Water and Drinking Water, EPA (WH-550E), 401 M St. SW., Washington, DC 20460; telephone (202) 382-5522.

SUPPLEMENTARY INFORMATION:

A. Background

40 CFR part 142, subpart B sets out requirements for States to obtain primacy for the Public Water System Supervision program, as authorized by section 1413 of the SDWA. EPA first promulgated these regulations on January 20, 1978. On December 20, 1989, EPA published amendments to these regulations (54 FR 52126).

The December, 1989 final rule amending the part 142 regulations was prompted by a recognition that the operation and scope of the PWSS program have changed considerably since the regulations were first promulgated. In addition, the SDWA Amendments of 1986 made significant changes to the scope and content of the drinking water program (see 54 FR 52127). The final rule established for the first time explicit procedures that States will need to follow to revise their approved primacy programs to adopt the requirements of new or revised EPA drinking water regulations. There are a large number of such new or revised regulations that EPA has promulgated or will be promulgating pursuant to the 1986 SDWA Amendments.

In addition, among other things, the rule modified the language of the provision in part 142 that concerns EPA's initiation of procedures that could

lead to withdrawal of primacy status for States that EPA determines are not continuing to meet the requirements for primacy (see § 142.17(a)(2)). The language of this provision as promulgated in December, 1989 reads as follows:

When, on the basis of the Administrator's review or other available information, the Administrator determines that a State no longer meets the requirements set forth in § 142.10, and the State has failed to request or has been denied an extension under § 142.12(b)(2) of the deadlines for meeting those requirements, or has failed to take corrective actions required by the Administrator, the Administrator may initiate proceedings to withdraw program approval. The Administrator shall notify the State in writing of EPA's intention to initiate withdrawal proceedings and shall summarize in the notice the information available that indicates that the State no longer meets such requirements.

(emphasis added).

Portions of the final rule have been the subject of a petition for review filed by the National Wildlife Federation in the DC Circuit Court of Appeals (*National Wildlife Federation v. Reilly*, No. 90-1072). In addition to challenging EPA's regulation on extensions (see below), NWF challenged on both procedural and substantive grounds the revision to the language on program withdrawals in § 142.17(a)(2). On procedural grounds, NWF alleges that the Agency provided insufficient opportunity for the public to comment on the revision to § 142.17(a)(2), in violation of requirements of the Administrative Procedure Act ("APA"). As to substance, NWF contends that EPA was without statutory authority to promulgate a revision making explicit that it is within EPA's discretion whether to initiate proceedings to withdraw a State's PWSS primacy program.

Although EPA disagreed with NWF's contentions, to ensure the fullest possible public input on the issue involved, the Agency decided to allow additional opportunity to comment in this case. Therefore, EPA published a Notice of Proposed Rulemaking to allow reconsideration of the language of § 142.17(a)(2) (55 FR 49398, November 28, 1990). That notice stated that EPA proposed to retain the language for the withdrawals provision adopted in the December, 1989 rulemaking but solicited public comments on whether this language should be revised.

As discussed below, in today's final rulemaking, EPA is retaining in § 142.17(a)(2) the language that was originally adopted in the December, 1989 rulemaking.

B. Partial Decision in National Wildlife Federation Lawsuit

On February 15, 1991, the U.S. Court of Appeals for the DC Circuit issued a partial decision in the National Wildlife Federation lawsuit. The decision upholds the "extensions" regulation in EPA's revised primacy rules. While this decision does not directly address the validity of the primacy withdrawals regulation, parts of the Court's discussion of the extensions regulation and its more general discussion of primacy are relevant to this issue.

The extensions provision allows primacy States up to two years after the effective date of new EPA drinking water regulations to adopt the regulations as State law. NWF had claimed that the effect of the extensions regulation—the creation of time periods in which primacy responsibility is split between the federal and State governments—is prohibited by the SDWA. NWF argued that under the Act, a State's primacy for the entire drinking water program necessarily ceases whenever a State fails to adopt a new EPA regulation by its effective date. The Court, however, found this reading to be unsupported by the Act. As discussed below, EPA believes similarly that initiation of primacy withdrawal is not necessary under the Act in every case where there are other types of program deficiencies.

In addition, the Court found the extensions regulation to be a "quite rational response to the practical realities of safe drinking water enforcement" (slip op. at 9). The Court also recognized a clearly expressed Congressional purpose that the Act is to be primarily a State and locally run program and determined that EPA's approach of allowing extensions is consistent with this purpose. EPA believes that these findings as well are applicable to and support today's decision to retain a withdrawals regulation that is discretionary.

C. Summary of Comments

Five groups submitted comments on the proposal to retain the existing regulation on withdrawals. Four of these commenters (consisting of two State agencies and two associations of water suppliers) supported the proposed rule. They cite a number of reasons for their support. For example, they note that the discretion this provision allows EPA in considering whether to initiate withdrawal is consistent with the cooperative State-federal spirit that Congress intended. In addition, they support EPA's exercise of discretion as a necessary approach in light of the

number and complexity of new EPA regulations. The commenters note that this discretion allows the Agency to consider the significance of State program deficiencies and the time required for corrections. They also believe that EPA's thoughtful application of this discretionary withdrawal authority will result in more efficient and effective oversight of State programs.

The final commenter was the National Wildlife Federation, which submitted detailed comments in opposition to the proposed regulation. NWF's comments echo the position it voiced during the earlier rulemaking and in its Court challenge to that rulemaking. NWF believes that the use of "may" in the withdrawals regulation (where the previous regulation used the term "shall") provides EPA with unlawful discretion over the initiation of withdrawal proceedings and unacceptably weakens EPA's oversight role in the primacy process.

NWF gives a number of reasons for its position. First, it contends that the discretion afforded to EPA under this regulation not to initiate withdrawal when the Agency determines that deficiencies exist in a State program cannot be reconciled with the SDWA. NWF points to SDWA section 1413(a), which provides that a State has primacy "during any period for which the Administrator determines" pursuant to Agency rules that the State meets the requirements for primacy. NWF believes that § 142.17(a)(2) contradicts the law by allowing a State to retain primacy even when the Administrator determines that a State no longer meets the requirements for primacy, no matter how serious the violation.

NWF also argues that the legislative history of the SDWA reinforces the conclusion that EPA is not "free to ignore" its own determination that a State program is deficient. It points to what it describes as a loose provision on EPA oversight in an earlier bill adopted by the Senate, which was rejected in the final legislation "in favor of the House bill's stringent State primacy oversight provision * * *." NWF also believes that the discretion contained in the withdrawals provision reverses a longstanding and contemporaneous interpretation of the Act by EPA. Further, NWF contends that the withdrawals provision encourages private consultations between the State and EPA concerning State program deficiencies, whereas SDWA section 1413(b)(1) specifically enables the public to have a voice in the process.

In addition, NWF believes that the withdrawals regulation represents poor public policy. The purpose of the 1986 SDWA amendments, it points out, was to ensure improved implementation and enforcement of the Act. NWF finds that the "relaxed" withdrawals regulation sends a message that compliance with the Act and regulations is not required. The regulation represents a relief valve, in NWF's view, which will encourage States to cut short their efforts to improve drinking water programs. Further, it finds, the process is driven "underground" by the lack of public participation; this will engender public mistrust and cynicism. According to NWF, the signal that EPA is "likely to look the other way" when there are program deficiencies will exacerbate problems with EPA oversight and with large numbers of documented illnesses from polluted drinking water.

D. Discussion of Withdrawals Provision

After carefully considering all of the public comments, EPA is retaining the language in § 142.17(a)(2) that was proposed in November, 1990 (and which had been originally promulgated in the December, 1989 rulemaking). This provision clearly states that it is within EPA's discretion whether to initiate procedures that could lead to withdrawal of a State's primacy program when the Administrator determines that the State program fails to continue to meet federal requirements for primacy.

1. Legal Basis. The language of § 142.17(a)(2) is authorized by SDWA section 1413, which affords discretion to the Administrator in matters concerning program withdrawals (see section 1413(b)). Although § 142.17(a)(2) constitutes a revision to the language of the previous withdrawals regulation (§ 142.12(b)(2)), EPA does not view the effect of the revised regulation to be different from that of the prior one, which EPA always interpreted and applied as providing this discretion to the Administrator. The Agency's purpose in revising this language was to clarify the discretionary nature of EPA's program withdrawal authority.

NWF's legal argument incorrectly focuses on SDWA section 1413(a). Section 1413(a) relates only to EPA decisions to grant primacy, not to withdraw it. SDWA section 1413(b) is the only statutory provision addressing EPA's manner for determining that primacy requirements are no longer met, and it gives EPA broad discretion in such matters. The DC Circuit Court's recent decision in the NWF lawsuit explicitly recognizes the Act's "broad grant of discretion to EPA to establish a

system for . . . withdrawal of primacy" (slip op. at 7).

That the SDWA affords this discretion to the Administrator is supported by its legislative history. The legislative history emphasizes Congress's intent to encourage States to assume primacy for public water systems and to foster a close working partnership between EPA and each State in operating the public drinking water program (see, e.g., H.R. Rep. No. 1185, 93d Cong., 2d Sess. 21 (1974), noting importance of Federal-State cooperation). As the State and utility commenters noted, EPA's discretion on the initiation of withdrawals is consistent with this scheme in that it allows the Agency to take into account the significance of particular violations of primacy requirements and the amount of time needed for the State to resolve any such violations.

NWF points to parts of the legislative history for the proposition that Congress intended section 1413 to be a "stringent" primacy oversight provision and that EPA therefore may not "ignore" its own determinations that State programs are deficient. As discussed below, EPA does not ignore program deficiencies. The Agency has worked and will continue to work with the States to ensure they are taking good faith actions to resolve any program deficiencies expeditiously. [States that simply ignore program deficiencies in the face of EPA efforts to ensure they are resolved should be on notice that the Agency does intend to initiate withdrawal of the State's primacy program in such cases.]

In any event, EPA does not believe that the legislative history cited by NWF casts any doubt on the legal validity of § 142.17(a)(2). The passages cited by NWF relate to the substantive standards against which EPA is to judge State programs, not to the procedures EPA is to follow in determining whether to withdraw primacy. It is consistent with SDWA section 1413, considered in light of this legislative history, for EPA to set stringent standards for primacy but to retain the discretion to decline or postpone initiation of withdrawal proceedings when there are primacy program deficiencies, where appropriate.

NWF also implies that the withdrawals regulation is inconsistent with SDWA section 1413(b)(1), which NWF notes gives the public "a voice in the process." Section 1413(b)(1), however, provides that "before a determination of the Administrator that [the requirements for primacy] . . . are no longer met with respect to a State may become effective," there shall be an

opportunity for a public hearing (emphasis added). The withdrawals regulation has always provided, and continues to provide, the opportunity for a public hearing before withdrawal of a program becomes effective. (The subject of public input is discussed further below.)

2. Policy Considerations. The discretionary nature of the withdrawal regulation allows EPA to work with a State that is acting in good faith to rectify the deficiencies in its program without having the Agency spend needless time and resources on withdrawal proceedings. As commenters recognized, initiating withdrawal would be unnecessary and inefficient if it appears that a State will soon resolve the problems with its program or that the State program deficiencies are of a minor or technical nature. Further, EPA has always interpreted the withdrawals regulation as discretionary. Despite NWF's claim, there is no longstanding Agency interpretation to the contrary (see the Court's discussion of this issue, slip op. at 8-9). Because EPA has not changed the effect of the withdrawals regulation, the Agency does not agree with NWF's claim that the new withdrawals regulation weakens EPA's primacy oversight procedures.

NWF believes that through the 1986 SDWA amendments, Congress sought to fortify EPA oversight of States and to improve enforcement and that the discretion retained by EPA in the withdrawals regulation is contrary to these directives. EPA notes that Congress's focus in the legislative excerpts cited by NWF was not on EPA oversight of State program requirements. Regardless, for the reasons stated in this notice, EPA believes that the discretion retained in the withdrawals regulation is in fact consistent with a strong and effective role for EPA in overseeing State primacy requirements.

The withdrawals regulation does not, of course, give discretion to the States as to what requirements they must meet and what EPA regulations they must adopt to retain primacy. It gives discretion only to EPA, to allow the Agency the flexibility to resolve State program deficiencies in the most effective way.

The discretion retained in the withdrawals regulation is fully consistent with the extensions provision added in December, 1989. Under the extensions regulation, where a State has not adopted the requirements of new Federal regulations, EPA in its discretion may extend the time for adoption (and under § 142.17(a)(2), EPA

will refrain during the extension period from initiating program withdrawal). The withdrawals regulation similarly allows EPA to exercise judgment in determining when it is appropriate to initiate withdrawal in the case of other types of program deficiencies.

In upholding the extensions regulation, the DC Circuit Court noted that "[i]f a state is the better enforcer of its local drinking water quality, but is temporarily unable to conform to a particular national standard for reasons beyond its control, what sense does it make for EPA to take over enforcement of the entire program?" (slip op. at 9). In line with this view, EPA needs a flexible regulation allowing it to exercise its reasoned discretion on when to initiate withdrawals in general. The alternative advocated by NWF—requiring EPA to initiate withdrawal and take over primacy for an entire State program in every case where there are program deficiencies, however readily those deficiencies may be resolved—makes little sense.

Notwithstanding EPA's discretion on withdrawal decisions, it is important for States and others to recognize that the Agency will vigorously pursue the need for corrections to State programs. This is discussed further in section E below.

In its comments, NWF also objected to the lack of public involvement in the consultations between EPA and the States concerning State program deficiencies. As noted above, under the regulations, there is always an opportunity for a public hearing before EPA makes effective a determination that a State is no longer meeting the requirements for primacy. While NWF would prefer to be involved earlier in the process, public involvement at that point would be premature and overly cumbersome. EPA's discussions with the States on the adequacy of their primacy programs are part of a continual dialogue and process stemming from EPA's oversight and enforcement responsibilities in primacy States. It would be inappropriate to provide for specific public involvement as to every determination by EPA that a State is continuing to meet primacy requirements or that a State program has deficiencies but they appear readily resolvable or otherwise minor.

At the same time, the decision not to involve the public in these findings is not meant to conceal them. The public is free to request information and documents concerning these determinations as it is with respect to any EPA actions.

NWF also refers to a June, 1990 General Accounting Office (GAO) report on the PWSS program, which found that

State programs are experiencing difficulties implementing SDWA regulations. The fundamental problem faced by the States is inadequate resources to operate the programs. The GAO report cited a resource needs survey conducted by EPA and the Association of State Drinking Water Administrators (ASDWA) which documents significant funding shortfalls in the State programs.

In response to these major resource constraints, EPA has developed a special initiative to help States increase their program resource capabilities. This State capacity initiative is targeted at helping States maintain primacy for drinking water programs, as Congress intended. Drinking water programs across the country received an increase of \$14 million from State sources in FY 1990 in addition to the federal increase of \$8.1 million. These increases have helped and the quality of State programs has improved such that EPA has not yet found deficiencies serious enough to warrant initiating withdrawal of primacy. GAO, it should be noted, did not recommend initiating withdrawals.

The Agency disagrees with NWF's contention that States already are taking a casual attitude toward complying with the law, as evidenced by the failure of the majority of States to adopt the recent filtration and total coliforms rules by December 31, 1990, the effective date for both rules. EPA has in fact entered into formal extension agreements with all States that have not yet adopted and been approved for these new rules. To be granted extensions, the States needed to show that they were working in good faith toward adopting the rules and that, as agreed to with EPA, they are taking certain actions within their current capabilities to implement the rules during the interim.

3. Further Changes. The revised language of § 142.17(a)(2) also contains two further changes to the previous regulation. First, the term "determines" has been substituted for "indicates." Specifically, the previous regulation stated that the Administrator shall notify the State when information "indicates" that the State no longer meets primacy requirements. Under the new regulation, the Administrator may initiate program withdrawal proceedings when the Administrator "determines" that the State no longer meets primacy requirements. EPA substituted this term to clarify and emphasize that a finding that a State no longer meets the requirements for primacy is a decision that rests within the discretion of the Administrator.

A second change to § 142.17(a)(2)

made in December, 1989 was the addition of language providing that the Administrator may initiate program withdrawal proceedings when he determines that a State no longer meets primacy requirements, "and the State has failed to request or has been denied an extension under § 142.12(b)(2) of the deadlines for meeting those requirements, or has failed to take other corrective actions required by the Administrator * * *." As to the latter clause concerning corrective actions, the Agency does not intend this language to mean that the Administrator would initiate withdrawal proceedings only where he has first ordered corrective actions and the State has failed to comply. Rather, the Administrator may initiate withdrawal proceedings if the Administrator has ordered corrective actions and the State has failed to comply.

The Agency's reasons for adopting the changes to § 142.17(a)(2) made in December, 1989, which today's action retains, are further explained in its brief in the *NWF v. Reilly* litigation, which is included in the public record for today's rulemaking. Also included in the record are the briefs filed by NWF.

E. EPA Policy on Withdrawals of Primacy

Although EPA has retained discretion under the regulations as to when to initiate primacy withdrawal, the Agency wishes to make it clear that it will vigorously pursue the need for corrections to State programs. It should be understood that EPA does intend to initiate program withdrawals in States that do not adopt all EPA regulations or otherwise are not acting in good faith to maintain the requirements for primacy. This includes situations where a State is not meeting a basic standard of sufficiency in testing, monitoring, or reporting. EPA's purpose in retaining discretion in the withdrawals regulation is to provide that the Agency need not initiate withdrawal in every single instance where there is a program deficiency. It does not follow that States may take a casual attitude toward complying with primacy requirements or that EPA will "look the other way," in NWF's words, when a State is failing to meet all primacy requirements. No one should construe the withdrawals regulation to send such messages.

List of Subjects in 40 CFR Part 142

Administrative practices and procedures, Intergovernmental relations,

Reporting and recordkeeping requirements, Water supply, Indians

Dated: May 28, 1991.

William K. Reilly,
Administrator.

For the above reasons, the effect of today's rulemaking is that the language of § 142.17(a)(2) of title 40, chapter I of the Code of Federal Regulations shall remain unchanged. The existing language, which shall continue, is republished (to read) as follows:

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

§ 142.17 Review of State programs and procedures for withdrawal of approved primacy programs.

(a) * * *

(2) When, on the basis of the Administrator's review or other available information, the Administrator determines that a State no longer meets the requirements set forth in § 142.10, and the State has failed to request or has been denied an extension under § 142.12(b)(2) of the deadlines for meeting those requirements, or has failed to take corrective actions required by the Administrator, the Administrator may initiate proceedings to withdraw program approval. The Administrator shall notify the State in writing of EPA's intention to initiate withdrawal proceedings and shall summarize in the notice the information available that indicates that the State no longer meets such requirements.

* * * * *

[FR Doc. 91-12971 Filed 5-31-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-244]

Organization and Delegation of Powers and Duties

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This document delegates authority to the Federal Railroad Administrator to implement section 1704 of the Crime Control Act of 1990, which permits a railroad police officer who is employed by a rail carrier to enforce the laws of any jurisdiction in which the rail carrier owns property.

EFFECTIVE DATE: June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Cynthia Mabry, Trial Attorney, Office of Chief Counsel, Federal Railroad Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-0635; or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-9307.

SUPPLEMENTARY INFORMATION: Section 1704 of the Crime Control Act of 1990 (Pub. L. 101-647, November 29, 1990) authorizes the Secretary of Transportation to promulgate regulations which would allow a railroad police officer who is employed by a rail carrier to enforce the laws of any jurisdiction where the rail carrier owns property. This amendment delegates the Secretary of

Transportation's authority to the Federal Railroad Administrator to issue those regulations.

Since this amendment relates to departmental management, notice and public comment are unnecessary. For the same reason, good cause exists for not publishing this rule at least thirty days before its effective date, as is ordinarily required by 5 U.S.C. 553(d). Therefore, the delegation of authority to the Federal Railroad Administrator to carry out the provision of the Crime Control Act of 1990 is effective as of the date of publication of this final rule.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.49 is amended by adding a new paragraph (ff) to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(ff) Exercise the authority vested in the Secretary by the Crime Control Act of 1990 (Pub. L. 101-647) as it relates to a railroad police officer's authority to enforce the laws of any jurisdiction in which the police officer's rail carrier employer owns property.

Issued on: May 20, 1991.

Samuel K. Skinner,
Secretary of Transportation.

[FR Doc. 91-12979 Filed 5-31-91; 8:45 am]

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-15-AD]

Airworthiness Directives; Fokker Model F-27 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Fokker Model F-27 series airplanes, which would require repetitive visual inspections to detect worn, loose, cracked or broken parts in the elevator trim system, and repair; and eventual modification of the elevator trim system. This proposal is prompted by several reports of elevator and trim tab flutter during flight and subsequent damage to both the elevator and tab. This condition, if not corrected, could result in reduced controllability of the airplane.

DATES: Comments must be received no later than July 22, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-15-AD, 1601 Lind Avenue SW, Renton, Washington 98055-4056. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane

Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-15-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F-27 series airplanes. There have been several reports of elevator and trim tab flutter during flight and subsequent damage to both the elevator and tab. Further investigation of the elevator and tab flutter incidents revealed that there are three primary failure modes causing the flutter: (1) Play or disconnect at the tab drive system; (2) play or disconnect at the inboard hinge; and (3) loss of torsional stiffness of the tab structure. This condition, if not corrected, could result in reduced controllability of the airplane.

As an interim action, Fokker issued F27 Maintenance Circular 55-3, dated September 10, 1985. This maintenance circular recommended inspecting the elevator trim system to detect worn, loose, cracked, or broken parts, and repair, if necessary, in accordance with the appropriate maintenance instructions referred in that document.

Subsequent to issuing Maintenance Circular 55-3, Fokker issued Service Bulletin F27/27-130, dated September 11, 1990, which describes procedures to modify the elevator trim system, which include the installation of an improved push-pull rod and an integral drive bracket; the installation of regreasable bearings at all tab hinges, and the installation of an improved elevator trim tab. The RLD has classified this service bulletin as mandatory, and has issued Airworthiness Directive BLA 90-106 addressing this subject.

The airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual inspections to detect worn, loose, cracked, or broken parts, and repair; and eventual modification of the elevator trim system in accordance with the maintenance circular and service bulletin previously described.

It is estimated that 44 airplanes of U.S. registry would be affected by this AD, that it would take approximately 46 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$55 per manhour. The estimated cost for the modification kit is \$18,000. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$903,320.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket No. 91-NM-15-AD.

Applicability: Model F-27 series airplanes; Serial Numbers 10102 through 10684, 10686, 10687, and 10689 through 10692; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent elevator and trim tab flutter during flight and reduced controllability of the airplane, accomplish the following:

(a) Within 100 hours time-in-service, unless accomplished within the previous 400 hours time-in-service, and thereafter at intervals not to exceed 500 hours time-in-service, perform a visual inspection to detect worn, loose, cracked, or broken parts in the elevator trim system, in accordance with the appropriate maintenance instructions referenced in the Fokker F27 Maintenance Circular 55-3, dated September 10, 1985. Repair any discrepant part(s) prior to further flight.

(b) Within 18 months after the effective date of this AD, modify the elevator trim system in accordance with the Accomplishment Instructions of Fokker Service Bulletin F27/27-130, dated September 11, 1990. Accomplishment of this modification constitutes terminating action for the repetitive visual inspections required by paragraph (a) of this AD.

Note: This terminating action does not preclude the visual inspections of the elevator and trim tab that should be considered at the Check 4 or the 2C-check interval, which are recommended in Fokker Service Bulletin F27/27-130, dated September 11, 1990.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on May 20, 1991.

Darell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 91-12987 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-104-AD]

Airworthiness Directives; McDonnell Douglas DC-9 and DC-9-80 Series Airplanes, Model MD-88 Airplanes, and C-9 (Military) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede two existing airworthiness directives (AD), applicable to McDonnell Douglas DC-9 and DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (Military) airplanes, which currently require inspection of specific primary longitudinal trim relays for discrepancies, and replacement, if necessary. This action would require replacement of the primary longitudinal trim relay with new parts at various intervals. This proposal is prompted by reports of shorting and burning of certain trim relays. This condition, if not corrected, could result in uncontrolled

fire in the forward cargo compartment of the airplane.

DATES: Comments must be received no later than July 22, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-104-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Kirk Baker, Aerospace Engineer, ANM-133L, FAA Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5345.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-104-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On February 1, 1991, the FAA issued AD 90-26-53, Amendment 39-6894 (56 FR 5342, February 11, 1991), and AD 91-01-51, Amendment 39-6893 (56 FR 5341, February 11, 1991). Both AD's require inspection for discrepancies of specific primary longitudinal trim relays installed on McDonnell Douglas Model DC-9 and DC-9-80 series airplanes,

Model DM-88 airplanes, and C-9 (Military) airplanes; and replacement, if necessary. Those actions were prompted by reports of shorting and burning of certain trim relays. This condition, if not corrected, could result in uncontrolled fire in the forward cargo compartment of the airplane.

The inspections required by those AD's were considered to be interim action until final action could be identified. It was anticipated that, subsequent to issuance of those AD's, a design change to the trim system would be developed that would preclude the need for repetitive inspections, as well as preclude the need for continual replacement of the primary trim relays at various intervals. As of this date, however, the FAA has received no proposed design changes to the system. Since continued inspections may not provide the level of safety assurance necessary, the FAA has determined that a requirement for regular replacement of the trim relays is warranted until an appropriate design change can be developed and implemented.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD's 90-26-53 and 91-01-51 with a new airworthiness directive that would require regular replacement of the primary longitudinal trim relay with new parts. For Model DC-9 and C-9 series airplanes, replacement of the relay would be required at intervals of 8,000 flight hours; for Model DC-9-80 series airplanes and MD-88 airplanes, replacement would be required at intervals of 16,000 flight hours. These intervals are based on the airplane manufacturer's reliability and probability studies of the subject relays. Replacement procedures would be required to be accomplished in accordance with the applicable airplane maintenance manual. This replacement would constitute terminating action for the inspections previously required by the existing AD's.

There are approximately 1,500 Model McDonnell Douglas Model DC-9 and DC-9-80 series airplanes, MD-88 airplanes, and C-9 (Military) series airplanes of the affected design in the worldwide fleet. It is estimated that 795 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$55 per manhour. Cost of required parts is estimated to be \$1,000 per relay. Based on these figures, the

total cost impact of the AD on U.S. operators is estimated to be \$860,588.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 90-26-53, Amendment 39-6894 (56 FR 5342, February 11, 1991), and AD 91-01-51, Amendment 39-6893 (56 FR 5341, February 11, 1991), and adding the following new airworthiness directive:

McDonnell Douglas: Docket No. 91-NM-104-AD. Supersedes AD 90-26-53 and AD 91-01-51.

Applicability: Model DC-9 and DC-9-80 series airplanes, Model MD-88 airplanes, and C-9 (Military) airplanes; equipped with Primary Longitudinal Trim Relays (up and down), Leech (P/N) 9207-8333, -8333-1, -8968, -10101, -10296, and -10166; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To eliminate overheating of primary longitudinal trim relays and the possibility of fire in the forward cargo compartment, accomplish the following:

(a) For Model DC-9 series airplanes (other than Model DC-9-80 series airplanes), and C-9 (Military) airplanes: Within 17 days after February 27, 1991 (the effective date of Amendment 39-6894, AD 90-26-53; and Amendment 39-6893, AD 91-01-51), or prior to the accumulation of 8,000 flight hours on the subject relays, whichever occurs later, remove the relay cover and inspect the primary longitudinal trim relays for evidence of contact degradation, arcing, carbon build-up, or other evidence of abnormal wear on the contacts; and perform a functional check of the system in accordance with McDonnell Douglas Alert Service Bulletin A27-316, dated December 22, 1990.

(b) For Model DC-9-80 series airplanes and Model MD-88 airplanes: Within 30 days after February 27, 1991, or prior to the accumulation of 16,000 flight hours on the subject relays, whichever occurs later, remove the relay cover and inspect the primary longitudinal trim relays for evidence of contact degradation, arcing, carbon build-up, or other evidence of abnormal wear on the contacts; and perform a functional check of the system in accordance with McDonnell Douglas Alert Service Bulletin A27-316, dated December 22, 1990.

(c) If damage is found during the inspections or functional tests required by paragraphs (a) and (b) of this AD, prior to further flight, remove and replace the relays in accordance with McDonnell Douglas Alert Service Bulletin A27-316, dated December 22, 1990.

(d) For Model DC-9 series airplanes (other than Model DC-9-80 series airplanes) and C-9 (Military) airplanes: Within 90 days after the effective date of this AD or prior to the accumulation of 8,000 flight hours on the subject relays, whichever occurs later; and thereafter at intervals not to exceed 8,000 flight hours; remove and replace the primary longitudinal trim relays in accordance with McDonnell Douglas DC-9 Maintenance Manual, Chapter 27-40-4. This replacement constitutes terminating action for the inspection and functional test required by paragraph (a) of this AD.

(e) For Model DC-9-80 series airplanes and Model MD-88 airplanes: Within 90 days after the effective date of this AD, or prior to the accumulation of 16,000 flight hours on the subject relays, whichever occurs later, and thereafter at intervals not to exceed 16,000 flight hours, remove and replace the primary longitudinal trim relays in accordance with McDonnell Douglas MD-80 Maintenance Manual, Chapter 27-40-4. This replacement constitutes terminating action for the inspection and functional test required by paragraph (b) of this AD.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance

Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California, 90846. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on May 20, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-12988 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 777

[Docket No. 910480-1080]

Western Red Cedar

AGENCY: Bureau of Export Administration Commerce.

ACTION: Proposed rule with requests for comments.

SUMMARY: The Bureau of Export Administration is proposing to amend the Export Administration Regulations (EAR) (15 CFR 730-799) to clarify the definition of processed western red cedar lumber by establishing a standard based on product size (maximum cross section of 2,000 square centimeters (310 square inches)) that can be exported. This rule also proposes to revise the licensing procedures for exporting unprocessed western red cedar timber. In addition, this rule proposes to establish a new general license GLOG for exports of unprocessed western red cedar timber harvested from private lands. Unprocessed western red cedar timber harvested from public lands would continue to require a validated license. Applications to export unprocessed western red cedar timber harvested from public lands would be reviewed with the presumption of denial. The Bureau of Export Administration expects this action to remove IVL requirements on approximately \$78 million dollars of annual exports.

DATES: Comments should be received by July 3, 1991.

ADDRESSES: Written comments (six copies) should be sent to: Sharon Gongwer, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bernard Kritzer, Office of Industrial Resource Administration (OIRA), Telephone: (202) 377-4060.

SUPPLEMENTARY INFORMATION:

Background Information

The Department of Commerce administers controls under section 7(i) of the Export Administration Act, as amended, for western red cedar harvested from Federal and other public lands. The Export Administration Regulations (§ 777.7) currently require a validated license to export unprocessed western red cedar (WRC) timber harvested from private lands while maintaining a presumption of denial for WRC timber harvested from public lands. This export restriction does not apply to WRC that has been processed into lumber of American Lumber Standards, Grades of Number 3 or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 dimension common or better.

This proposed rule would amend certain licensing procedures for exports of unprocessed western red cedar timber and would establish a new General License GLOG authorizing exports of unprocessed western red cedar harvested from private lands. Exports of unprocessed western red cedar harvested from public lands would continue to require a validated license. The Bureau of Export Administration expects this action to remove IVL requirements on approximately 78 million dollars of annual exports.

Rulemaking Requirements.

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005. This rule also contains a collection of information already approved by OMB under control number 0694-0025 and new recordkeeping requirements for exporters using the general license GLOG. These recordkeeping requirements have been submitted to the

Office of Management and Budget for review. Public burden hours for these information collection and recordkeeping requirements is estimated to average 30 minutes for the collection of information under 0694-0025 and 1 hour for the new recordkeeping requirement 0694-XXXX. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing these burdens, to the Office of Security and Management Support, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: Paperwork Reduction Project—0694-0025 and/or 0694-XXXX.)

3. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it reduces the burden on exporters. The GLOG regulation would result in the export licensing decontrol of approximately \$79 million (1989 data) of WRC harvested from public lands. This amount represents approximately one to one and one-half percent of the \$6 billion dollar value of United States exports of forest products during 1990. The firms which would be affected by this rule are small-to-medium size log exporters and traders. To the best of our knowledge, few, if any, large firms are involved in exporting unprocessed WRC timber. Removal of the IVL requirements would reduce the burden on each firm by approximately four hours per export license. As a result, an initial Regulatory Flexibility Analysis was not prepared.

4. This rule is being issued in proposed form because the Department wishes to encourage comments from all interested parties.

5. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Invitation To Comment

This rule is issued in proposed form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to

comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close July 3, 1991. In developing final regulations, the Department will consider all comments received before the close of the comment period. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-5653.

List of Subjects

15 CFR Part 771

Exports, Reporting and recordkeeping requirements.

15 CFR Part 777

Administrative practice and procedure, Exports, Forest and forest products, Petroleum, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR parts 768-799) are amended as follows:

PART 771—[AMENDED]

1. The authority citation for 15 CFR part 771 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; E.O. 12532 of September 9, 1985 (50 FR 36881, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986); Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); E.O. 12214 of May 2, 1980 (3 CFR 256 (1981)), and E.O. 12002 of July 7, 1977 (3 CFR 133 (1978)).

2. The authority citation for 15 CFR part 777 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; sec. 103, Pub. L. 94-163 of December 22, 1975 (42 U.S.C. 6212), as amended; sec. 101, Pub. L. 93-153 of November 18, 1973 (30 U.S.C. 185); sec. 28, Pub. L. 95-372 of September 18, 1978 (43 U.S.C. 1354); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976), as amended; sec. 201 and 201(11)(e), Pub. L. 94-258 of April 5, 1976 (10 U.S.C. 7420 and 7430(e)); sec. 125, Pub. L. 99-64 of July 12, 1985 (46 U.S.C. 486(c)); Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); E.O. 12214 of May 2, 1980 (3 CFR 256 (1981)), and E.O. 12002 of July 7, 1977 (3 CFR 133 (1978)).

3. 15 CFR part 771 is amended by adding § 771.7 to read as follows:

§ 771.7 General License GLOG; unprocessed western red cedar timber harvested from private lands.

(a) *Scope.* A General License GLOG is established subject to the provisions of this section, authorizing the export of unprocessed western red cedar timber harvested from all private lands; all Indian lands; and Federal, State and other public lands in Alaska, subject to the recordkeeping requirements in paragraph (b) of this section.

(b) *Recordkeeping requirements.* Exporters who use General License GLOG must obtain and retain on file the documents described in paragraphs (b)(1) and (b)(2) of this section. These documents must be maintained in accordance with the recordkeeping requirements of § 787.13 of this subchapter.

(1) A statement by the exporter (or other appropriate documentation) indicating that the unprocessed timber exported under GLOG was not harvested from State or Federal lands outside the State of Alaska, and did not become available for export through substitution of commodities so

harvested or produced. If the exporter did not harvest or produce the timber, the records or statement must identify the harvester or producer and must be accompanied by an identical statement from the harvester or producer.

Appropriate statements or documentation from each intermediate party or parties who held title to the timber between harvesting and purchase by the exporter must also be obtained by the exporter and retained on file. The exporter shall retain this documentation in the files for the period prescribed in § 787.13(e) of this subchapter.

(2) A certificate of inspection issued by a log scaling and grading bureau, recognized by both the United States Forest Service and the State within which the timber was harvested, that:

(i) Specifies the quantity in cubic meters or board feet, scribner rule, of unprocessed western red cedar timber to be exported; and

(ii) Lists each type of brand, tag, and/or paint marking that appears on any log or unprocessed lumber in the export shipment or, alternatively, on the logs from which the unprocessed timber was produced.

Note: See § 777.7 of this subchapter for definitions of unprocessed red cedar.

4. Section 777.7 is revised to read as follows:

§ 777.7 Unprocessed western red cedar.

(a) *General.* The export of unprocessed western red cedar timber (defined in paragraph (b) of this section) from the United States, to any destination, including Canada, is prohibited, except pursuant to a validated license issued by the Office of Export Licensing, unless the timber has been harvested from private lands, Indian lands, or public lands in the State of Alaska, and is thereby eligible for export under General License GLOG (See § 771.7 of this subchapter). This section controls only exports of unprocessed western red cedar timber harvested from State, Federal, or other public lands. The Forest Resources Conservation and Shortage Relief Act of 1990 (See 15 CFR part 709) controls exports of unprocessed timber (except western red cedar) that is harvested from Federal, State or other public lands in the contiguous United States west of the 100th meridian.

(b) *Licensing policy.* (1) A validated license will not be issued for unprocessed western red cedar harvested from State or Federal lands under harvest contracts entered into after September 30, 1979.

(2) A validated license may be issued for unprocessed western red cedar harvested from State or Federal lands under contracts entered into prior to October 1, 1979.

(c) *Definitions*—(1) *Unprocessed western red cedar* means western cedar (*thujaplicata*) timber, logs, cants, flitches, and processed lumber containing wane on one or more sides, as defined in ECCN 4996B, which has not been processed into:

(i) Lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better. The size of any individual piece of processed WRC being exported is limited to a maximum cross section of 2,000 square centimeters (310 square inches);

(ii) Chips, pulp, and pulp products;

(iii) Veneer and plywood;

(iv) Poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; and

(v) Shakes and shingles.

(2) *Federal and State lands* means Federal and State lands excluding lands in the State of Alaska and lands held in trust by any Federal or State official or agency for a recognized Indian tribe or for any member of such tribe.

(3) *Contract harvester* means any person who, on October 1, 1978, had an outstanding contractual commitment to harvest western red cedar timber from State and Federal lands and who can show by his previous business practice or other means that he intended to export or to sell into or for export in unprocessed form all or part of the commodities to be harvested.

(4) *Producer* means any person engaged in a process that transforms an unprocessed western red cedar commodity (e.g. western red cedar timber) into another unprocessed western red cedar commodity (e.g. cants) primarily through a saw mill.

(d) *Application for export license*. (1) Applicants to export unprocessed western red cedar must submit a properly completed Form BXA 622P, Application for Export License, other documents as may be required by the Office of Export Licensing, and a signed statement from an authorized representative of the exporter, reading as follows:

I, _____
(Name)

(Title)
of _____
(Company)

HEREBY CERTIFY that to the best of my knowledge and belief the

(Quantity)
(cubic feet or mbf scribner) of unprocessed western red cedar that

(Company)
proposes to export was not harvested from state or federal lands under contracts entered into after October 1, 1979.

(Date)

(Signature)

(2) For Items 6 and 7 on Form BXA-622P, "Various" may be entered when there is more than one purchaser or ultimate consignee.

(e) *Supporting documentation*. For each Form BXA-622P submitted, or each export shipment made under the authority of a validated export license, the exporter must assemble and retain for the period prescribed in § 787.13(e) of this subchapter, and produce or make available for inspection as provided in § 787.13(f) of this subchapter:

(1) A signed statement(s), by the harvester or producer, and each subsequent party having held title to the commodities, that the commodities in question were harvested under a contract to harvest unprocessed western red cedar from State or Federal lands, entered into before October 1, 1979; and

(2) A copy of the Shipper's Export Declaration.

(f) *Shipping tolerance*. A shipping tolerance of 5 percent in cubic feet or board feet scribner is allowed on the unshipped balance of a commodity listed on a validated export license. This tolerance applies only to the final quantity remaining unshipped on a license against which more than one shipment is made and not to the original quantity authorized by such license. (See § 786.7 of this subchapter.)

(g) *Communications*. Questions concerning applications to export unprocessed western red cedar under this section and the specific documentation requirements should be directed to the Bureau of Export Administration at the address provided in § 772.1(e) of this subchapter.

Dated: May 24, 1991.
Michael P. Galvin,
Assistant Secretary for Export
Administration.

[FR Doc. 91-12774 Filed 5-31-91; 8:45 am]

BILLING CODE 3510-DT-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-29238; File No. S7-15-91]

Securities Transactions Exempt From Transaction Fees

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is publishing for comment amendments to rule 31-1 under the Securities Exchange Act of 1934, which governs exemptions from section 31 transaction fees. The Commission is soliciting comment on a proposal to exempt certain transactions effected after regular trading hours from the imposition of section 31 transaction fees. Under the proposal, transactions effected after regular trading hours in a system that provides execution for orders of 15 securities or more at one aggregate price would be exempt from transaction fees imposed pursuant to section 31 of the Securities Exchange Act of 1934. The Commission is also soliciting comment on, but not proposing at this time, extending the exemption to individual stock transactions that are executed after regular trading hours where execution occurs at the last price established during regular trading hours.

DATES: Comments are requested by July 3, 1991.

ADDRESSES: Interested persons should submit three copies of their written data, views, and arguments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and should refer to File No. S7-15-91. All submissions will be made available for public inspection and copying at the Commission's Public Reference Section, room 1024, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sharon Lawson, Special Counsel, 202/272-2406, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., (Mail Stop 5-1), Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 31 of the Securities Exchange Act of 1934 ("Act")¹ requires every

¹ 15 U.S.C. 78a (1988).

national securities exchange to pay an annual fee to the Commission based on the aggregate dollar amount of the sale of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on that exchange.² In addition, section 31 requires payment of similar fees from broker-dealers for over-the-counter ("OTC") transactions in exchange-listed stocks.³ The purpose behind Section 31 fees is to require the markets to pay for the cost of regulation and oversight.⁴

Section 31 also provides the Commission with authority to exempt any sale of securities or any class of sales of securities from imposition of the transaction fee if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets, and the development of a national market system.

Pursuant to its exemptive authority, the Commission promulgated rule 31-1 under the Act which provides a number of exemptions from section 31. In particular, rule 31-1(e) exempts from section 31 fees transactions which are executed outside the United States and are not reported or required to be reported to a transaction reporting association and any approved plan filed thereunder.⁵

² The fee is equal to .00003% of the aggregate dollar value of securities sold.

³ For transactions otherwise than on a national securities exchange, the fee is to be paid by the broker-dealer on the sale side of the transaction. If, however, there is no broker-dealer on the sale side of the transaction, then the broker-dealer on the buy side is required to pay the fee. Where no broker-dealer is involved in the transaction, no fee is required. See Rule 31-1.

⁴ As adopted by Congress in 1934, and originally entitled "Registration fees," section 31 of the Act required each exchange to pay to the Commission "a registration fee for the privilege of doing business as a national securities exchange." See Securities Exchange Act of 1934, 31, 48 Stat. 881, 904 (1934). The Securities Acts Amendments of 1975 amended Section 31, changing the caption to "Transaction Fees," to require broker-dealers also to pay fees for OTC transactions in exchange-listed securities. See 15 U.S.C. 78ee (1975). In adopting these amendments, the legislative history indicates the purpose behind Section 31 remained the same stating that "even-handed treatment of transactions in [exchange] registered securities is necessary in view of the fact that the over-the-counter market involves Commission regulation and oversight as well as that of the exchange market. The cost of such regulation and oversight should be borne in comparable fashion." See S. Rep. No. 5, 94th Cong., 1st Sess., reprinted in 1975 U.S. Code Cong. & Ad. News 179, 318.

⁵ In evaluating if a particular transaction is not subject to Section 31 fees because it is "executed outside the United States" commentators should be aware of the Commission's recent order concerning Wunsch Auction Systems, Inc. ("WASI"). In that order, the Commission stated its belief that "trades negotiated in the U.S. on a U.S. exchange are domestic, not foreign trades. The fact that the trade may be time-stamped in London . . . does not in our view affect the obligation . . . to maintain a

The New York Stock Exchange, Inc. ("NYSE") has received approval to establish two distinct off-hours trading sessions ("Off-Hours Trading Sessions") called Crossing Session I and Crossing Session II.⁶ Transactions occurring through the Off-Hours Trading Sessions would be subject to Section 31 fees under the current requirements of the Act. Crossing Session I permits the execution, at the NYSE closing price, of single stock, single sided orders against one another and coupled single-stock buy and sell orders. These executions would take place in a single crossing trade at 5 p.m. (e.s.t.). Crossing Session I also permits certain limit orders to participate in the crossing session. Crossing Session II permits executions, at a single aggregate price, after the NYSE's 4 p.m. (e.s.t.) close, of coupled buy and sell orders involving portfolios of at least 15 stocks valued at \$1 million or more. Under Crossing Session II, members will be able to transmit summary data regarding aggregate price coupled orders to the NYSE via facsimile. The NYSE will aggregate the total number of shares and the total market value of the aggregate-price trades into one report. After 5:15 p.m. the report will be transmitted over the high speed line as an administrative message.

In its filings, the NYSE indicated that it was proposing the Off-Hours Trading Sessions to recapture some of the orderflow that it had lost due to overseas trading in listed stocks. In pursuing this goal, the NYSE requested that the Commission exempt transactions in its Off-Hours Trading Sessions from Section 31 fees.⁷ The NYSE argues that without such an exemption, Section 31 fees would adversely impact competition by making NYSE transactions more expensive than foreign transactions and that this would impede the NYSE's ability to recapture cost-sensitive order flow from overseas.

In response to this request, the Commission has decided to propose for comment subsection (g) to rule 31-1. As discussed below, the proposed amendment would exempt from Section

complete record of such trades and report them as U.S. trades to U.S. regulatory and self-regulatory authorities and, where applicable, to U.S. reporting systems." See Securities Exchange Act Release No. 28899 (February 20, 1991).

⁶ See Securities Exchange Act Release No. 29237 (May 24, 1991) approving NYSE File Nos. 90-52 (Crossing Session I) and 90-53 (Crossing Session II).

⁷ See letter from Catherine R. Kinney, Senior Vice President, NYSE, to Brandon Becker, Associate Director, Division of Market Regulation, SEC, dated September 18, 1990 ("Kinney Letter"). The Kinney Letter also requested other exemptive and interpretive relief unrelated to the Section 31 fee issue being discussed in this release.

31 fees only transactions involving portfolios of 15 or more securities executed at a single price during off-hours trading sessions.

II. Discussion

The Commission has reviewed carefully the NYSE request to grant an exemption from Section 31 fees to both of its proposed Crossing Session I and Crossing Session II Off-Hours Trading Sessions. The Commission is cognizant of the competitive concerns that prompted the NYSE to propose its Off-Hours Trading Sessions. The Commission also recognizes the view that overseas orders in U.S. stocks, which the NYSE's proposed Off-Hours Trading Sessions are attempting to recapture, supposedly are not currently subject, pursuant to rule 31-1(e), to Section 31 fees.⁸ Accordingly, if the NYSE's Off-Hours Trading Sessions accomplish their intended purpose of attracting after hours overseas order flow, the impact on Section 31 fees received by the Commission would be minimal.

Section 31 specifically states that, in granting an exemption to Section 31 transaction fees, the Commission must find that the exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system. The Commission preliminarily believes that, in applying these standards, an exemption that would apply to off-hour executions at a single price involving a portfolio of 15 or more securities would be appropriate. The Commission, however, is declining at this time to propose a broader exemption from Section 31 fees that would encompass the entry of single sided orders to be crossed in an off-hours trading session such as in the NYSE's proposed Crossing Session I.

The proposed amendment to rule 31-1, if adopted by the Commission, would provide a limited exemption from the payment of Section 31 fees for sales involving 15 securities or more at one aggregate price occurring on or off an exchange in listed securities after regular trading hours. Under the proposal, regular trading hours are defined as the hours between 9:30 a.m. and 4 p.m. (e.s.t.), or the hours otherwise established by the Commission or by the

⁸ In this connection, however, the Commission does not necessarily believe that all such transactions are exempt from Section 31 fees. As noted *supra* note 5, depending on whether the transaction is first negotiated in the U.S., it may or may not be so exempt.

rules of a national securities exchange or national securities association. The proposed amendment, if adopted, would apply to NYSE's Crossing Session II and to any transactions on the Midwest's Stock Exchange's ("MSE") Portfolio Trading System ("PTS") during its Secondary Trading Session.⁹ Aside from the NYSE, the MSE is the only other national securities exchange that currently has approval to execute single priced, portfolio trades after regular trading hours that would be exempted from fees under the proposed terms of the amendment.¹⁰

The Commission preliminarily believes that the proposed exemption for off-hours portfolio trades is appropriate for several reasons. First, as stated in the NYSE's portfolio execution proposal, the NYSE is trying to respond to the increased development of trading strategies involving the contemporaneous execution of multiple stocks at a single, aggregate price, often in conjunction with index options and futures.¹¹ Many of the transactions occurring after regular trading hours overseas involve portfolio trades. These transactions, when executed overseas, currently may be exempt from section 31 fees.¹² By aligning the fee exemption for after hours portfolio trading to match the treatment for overseas trading, the proposal will promote the public interest and the equal regulation of markets and broker-dealers, as required by section 31 of the Act, because it will remove an incentive for executing these trades overseas. This furthers the public interest because the executive of portfolios in the U.S. would subject these trades to the full panoply of the federal securities laws. Finally, the Commission preliminarily believes that the proposal is consistent with the development of a national market system and equal regulation of markets because it is a discrete exemption to facilitate the execution of portfolio trades that otherwise occur overseas after regular trading hours and should not have any significant effect on the markets during regular trading hours. In this context, the exemption has been drafted to be available to any U.S. market permitting off-hours portfolio trading that meets the requirements

described above. For all of these reasons, we preliminarily believe that the statutory standards for exempting off-hours portfolio transactions from section 31 fees have been met.

For several reasons, however, we are unable to make the same conclusions, at this time, about off-hours trading involving executions of single stock orders similar to those envisioned in the NYSE's Crossing Session I. First, it is unclear whether the extension of an exemption to single stock orders would result in a significant loss of funds collected by the Commission. As noted above, the purpose behind section 31 fees is that the market pay for their regulation and oversight. NYSE's Crossing Session I would allow certain unexecuted limit orders from the specialists book to be executed during the off-hours trading session. These orders might otherwise be executed during regular trading hours and thus would currently, when executed, be subject to section 31 fees. Second, an exemption for single-stock orders executed at closing prices would apply to other off-hour trading sessions that currently exist, in addition to the NYSE's Crossing Session I. Currently, both Instinet and POSIT have an off-hours trading session involving single stock executions at closing prices on the primary market.¹³ Equal regulations would require that any exemption would have to encompass trading over such systems, thereby resulting in a further loss of section 31 fees collected by the Commission, a fee that is directly related to the oversight of the U.S. markets. Third, another market currently operates a continuous auction market in listed securities past the 4 p.m. close. This market currently pays section 31 fees for all transactions executed until its close. A fee exemption for crossing sessions that permit the entry of single-sided orders to be executed at the closing price of the primary market after the regular NYSE 4 p.m. close could therefore create the perception of unequal treatment vis-a-vis a market that maintains a continuous action market past the NYSE's 4 p.m. close and

that continues to pay section 31 fees after 4 p.m.¹⁴

For these reasons, the Commission is declining, at this time, to propose a section 31 fee exemption for the NYSE's Crossing Session I Off-Hours Trading Session. The Commission, however, is still considering whether to propose such an exemption and to aid in this consideration is soliciting comment on granting a section 31 fee exemption for off-hours, single-stock executions that occur at the closing price established during regular trading hours.

The Commission also solicits general comments on the proposed amendment discussed herein and whether the conditions for granting off-hour portfolio transactions an exemption from section 31 fees are appropriate.

III. Regulatory Flexibility Act Status

Pursuant to section 605(b) of the Regulatory Flexibility Act,¹⁵ the Chairman of the Commission has certified that the proposed amendment to the Rule herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons, therefore, is attached to this release.

IV. Effects on Competition

Section 23(a) of the Exchange Act¹⁶ requires the Commission, in adopting rules under the Exchange Act, to consider the anti-competitive effects of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the proposed amendments to rule 31-1 in light of the standards cited in section 23(a)(2) and preliminarily believes for the reasons stated in this release that adoption would not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. The Commission, however, solicits commentators' views on whether the proposed amendments to the Rule would result in any anti-competitive impact.

V. Statutory Basis and Text of Proposed Amendments

The rule amendments are being proposed pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 23(a) and 31 of the Act.

¹⁴ This same concern would arise with respect to executions by BT Brokerage for WASI, an after-hours single priced auction exchange, which are currently subject to section 31 fees.

¹⁵ 5 U.S.C. 605(b).

¹⁶ 15 U.S.C. 78w(a)(2).

⁹ Although the MSE has Commission approval to operate its PTS, currently the MSE is not operating the system. See Securities Exchange Act Release No. 27384 (October 26, 1989), 54 FR 45852 approving MSE's PTS.

¹⁰ Of course, the proposed amendment potentially could apply to other trading systems approved in the future that meet the exemption's requirements.

¹¹ See NYSE rule filing, SR-NYSE-90-53, on Crossing Session II, note 6, *Supra*.

¹² See *tes 5 and 8, supra*.

¹³ Instinet has an after-hours crossing network that permits participants, through the system, to electronically enter stock orders. The system pairs off buy and sell orders against each other, and then sends any unmatched orders to an exchange for execution or executes the residue against Instinet as principal. POSIT permits the trading of exchange-listed and OTC securities by institutional customers with substantial securities portfolios. The system permits its subscribers to post an indication of interest to be matched on a confidential basis against other orders in the system.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

On the basis of the above discussion, the Commission is proposing to amend part 240 of chapter II, title 17 of the Code of Federal Regulation as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

Authority: 15, U.S.C. 77c, 77d, 77s, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 79q, 79t, 80a-29, 80a-37, unless otherwise noted.

2. Section 240.31-1 would be amended by adding paragraph (g) to read as follows:

§ 240.31-1 Securities transactions exempt from transaction fees.

(g) Transactions which are executed otherwise than during regular trading hours in a system that provides execution for orders of 15 securities or more at one aggregate price. "Regular trading hours" is defined as the hours between 9:30 a.m. and 4 p.m. (e.s.t.), or the hours otherwise established by the Commission by rule or order or by the rules of a national securities exchange or national securities association.

Dated: May 28, 1991.

By the Commission.

Jonathan G. Katz,
Secretary.

Regulatory Flexibility Act Certification

I, Richard C. Breeden, Chairman of the Securities Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendment to rule 31-1 set forth in Securities Exchange Act Release No. 34-29238, if adopted, will not have a significant economic impact on a substantial number of small entities. The reasons for this certification are that (1) the proposed amendment imposes no regulatory burden in itself but rather exempts certain transactions from payment of Section 31 fees and (2) the amendment merely identifies a type of transaction proposed to be exempt from Section 31 fees and applies to any national securities exchange or broker-dealer executing single priced, portfolio trades, involving 15 or more securities, after regular trading hours as defined under the terms of the proposed amendment.

Dated: May 28, 1991.

Richard C. Breeden,
Chairman.

[FR Doc. 91-12969 Filed 5-31-91; 8:45 am]

BILLING CODE 8010-01-M

POSTAL SERVICE

39 CFR Part 111

Curbside Mailboxes; Manufacturing Standard USPS-STD-7

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal will revise the Domestic Mail Manual and USPS-STD-7, dated October 1985, to include all mailboxes which are designed for installation at the curb or edge of a roadway on city, rural, and highway contract delivery routes. The proposed new title of USPS-STD-7 is "U.S. Postal Service Standard, Mailboxes, City and Rural Curbside." The proposed rules would also permit the use of plastics in the construction of mailboxes. The proposed revision of USPS-STD-7 will include minimum requirements and test criteria for all boxes.

DATES: Comments must be received on or before July 3, 1991.

ADDRESSES: Written comments should be addressed to: Director, Office of Retail and Delivery Management, U.S. Postal Service, 475 L'Enfant Plaza SW., rm. 7142, Washington, DC 20260-7151.

Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Roy Preston (202) 268-3949.

SUPPLEMENTARY INFORMATION: Current postal regulations require rural delivery customers who receive curbside service to install and maintain approved mail receptacles. Construction standards and specifications for these receptacles are set forth in USPS-STD-7 (U.S. Postal Service Standard Boxes, Rural Mail). The use of approved receptacles promotes Postal Service efficiency, safety, and mail security.

Regulations do not currently require customers who receive city delivery or highway contract delivery service to use approved boxes for curbside delivery although customers generally purchase these receptacles voluntarily. The same reasons which justify the use of approved receptacles in rural delivery areas apply equally to city delivery and highway contract delivery. Accordingly, the Postal Service proposes revisions to

sections 151, 155, 156, and 157 of the Domestic Mail Manual to require customers in all delivery areas to utilize approve boxes for curbside service, to set forth specifications and application procedures consistent with the proposed USPS-STD-7, and to set forth the rules concerning the specifications for the receptacles in section 151, rather than in the section concerning rural delivery service. The proposed rules also require customers on all routes to comply with current rural delivery rules regarding painting and identification of boxes, posts and supports, location, and locks.

The Postal Service also proposes to reissue USPS-STD-7 and to revise certain of its provisions. The proposal would permit the use of plastics in the manufacture of receptacles, in view of the recent advances in the durability of these materials. The proposal would also revise certain specifications and testing standards for all curbside receptacles in order to ensure efficient and safe delivery, and the security of mail. The proposed changes in USPS-STD-7 include the following:

1. Section 1.1—The new standard covers all curbside mailboxes in city, rural, and highway contract delivery service areas; this change is reflected beginning in 1.1 and is continued throughout the text.

2. Section 1.2—Box size designations for both standard and contemporary mailboxes are changed from 1, 1A, 2, C1, C1A, and C2 to 1, 2, 3, C1, C2, and C3 respectively.

3. Section 1.3—Added to specify that approved manufacturers will be listed in the Domestic Mail Manual, and to provide a source for information within the Postal Service.

4. Section 2.1—Specifications MIL-W-8604 and MIL-W-8611 and standards FTMS 141 (Method 6191) and FTMS 151 (Method 811.1) are deleted. The address to obtain copies of federal specifications is added, and the address to obtain copies of military specifications and standards is changed.

5. Section 2.2—A new section lists non-government documents. It adds American Standards for Testing Materials (ASTM) specifications as follows: ASTM B-117, ASTM D-968, ASTM E-308, ASTM E-313, ASTM G-26; and an address to obtain copies of these standards. American Welding Society (AWS) standard C2.0 is deleted from the new specifications. The following standards are added to the new specifications: AWS C2.4, AWS D9.1, & AWS WHB-4 Ch 8; and the address to obtain copies of American Welding Society standards is changed. National Motor Freight Classification Rules are

added to the specifications and an address to obtain copies of the rules is provided.

6. Section 2.3—Added to make clear that the specifications generally apply to both Type I and Type II boxes.

7. Section 3.1—"General Design" provisions are added to specify load tests which must be passed by all boxes, that boxes must be self-extinguishing, and that boxes cannot contain any transparent material. The latter, which is a change from existing policy, is for mail security.

8. Section 3.1.2—Changed to require a design such that the delivery and retrieval of mail must be in a horizontal position only (no vertical). Additional language is added allowing both front and rear doors to enable a customer to remove mail without standing in the street. These changes facilitate efficient and safe delivery of mail, and customer safety in retrieving mail.

9. Section 3.3—Provides that the carrier service door may not be spring loaded, and eliminates the option of providing a ring rather than handle or knob for opening the door. These changes are for safety reasons.

10. Section 3.5—Provides that a locking mechanism is optional. It also adds language requiring that any box equipped with a lock must have a slot large enough to accommodate the customer's normal daily mail volume.

11. Section 3.6.1—Specifies the location of the flag in relation to the top and front of the box, the minimum number of test cycles required, and that the flag cannot be free to rotate more than one hundred (100) degrees.

12. Section 3.6.2—Adds language allowing a self-lowering device when the door is opened, and specifying the location of the flag in relation to the top and front of the box, the minimum number of test cycles required, and that the flag cannot be free to rotate more than one hundred (100) degrees.

13. Section 3.7—Specifies that boxes, submitted to the Postal Service for approval, must include the inscriptions "U.S. MAIL" and "Approved By The Postmaster General".

14. Section 3.8—Adds provisions concerning testing procedures and standards for approval.

15. Section 3.9—Adds provisions specifying maximum tolerance changes (plus or minus) allowed in color intensity and yellowness indexes, that boxes may be any color, and that carrier signal flags may be any color which contrasts with the box with the exception of any shade of green, brown, or white.

16. Section 3.10—Adds provisions prohibiting any part of the box mounting

apparatus to project beyond the front or the rear of the box, or to interfere with the doors.

17. Section 3.11—Adds a specific message in bold print which must be included in the instructions.

18. Section 3.12—Adds provisions expanding and clarifying the requirements concerning workmanship and new provisions concerning plastics.

19. Section 3.13—Renumbered from former section 3.17.1 with minor changes in language and requirements.

20. Section 3.14—Renumbered from former section 3.13. It includes new language concerning submission of boxes for testing and approval.

21. Section 3.14.1—Continues former section 3.13.1 with the addition of the temperature at which the test is conducted.

22. Section 3.14.2—Continues former section 3.13.2 with the addition of further test requirements.

23. Section 3.14.3—Provides a new impact test.

24. Section 3.14.4—Continues former section 3.14.1 with revisions in the standards and testing of the abrasion resistance of the coating.

25. Section 3.14.5—Continues former section 3.15.1 with revisions in the standards and testing of salt spray resistance.

26. Section 3.14.6—Continues former section 3.16.1 with revisions in the standards and testing of flammability.

27. Section 3.14.7—"Watertightness" is a new provision which specifies the method of testing, and the minimum acceptable requirements.

28. Section 3.14.8—"Solar Exposure/Weathering" is a new provision which specifies the method of testing, and the minimum acceptable requirements.

29. Section 3.14.9—A new provision continues and adds a means for testing the requirements which were contained in former section 1.2.

30. Section 3.14.10—A new provision specifies the method of testing and the maximum change tolerances (plus or minus) in yellowness indexes when the box is subjected to the environmental conditions specified in section 3.14.8.

31. Section 4—Expands former section 3.19.1 to clarify the complete process for submission of products for testing and approval by the Postal Service.

32. Section 5—Expands former section 3.18.1 to clarify the requirements concerning the packaging of boxes.

Other minor changes in the language and organization of the Domestic Mail Manual and USPS-STD-7 are also proposed. It is the intention of the Postal Service that all mailboxes currently approved to bear the inscription "Approved by the Postmaster General"

will be required to be recertified under the proposed standard, USPS-STD-7, not later than six (6) months after its effective date.

Although exempt from the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(b), (c), regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments of parts 151, 155, 156, and 157 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR Part 111.1, and USPS-STD-7 (U.S. Postal Service Standard Boxes, Rural Mail), the complete text of which is set forth in an Exhibit following this notice.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation in 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552 (a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

CHAPTER 1—DOMESTIC MAIL SERVICES

Part 150—Collection and Delivery

151—MAIL RECEPTACLES

* * * * *

2. Revise the first sentence of 151.2 to read as follows:

Except as provided in 151.58, the receptacles described in 151.1 shall be used exclusively for matter which bears postage. Therefore, other than as permitted in 151.58, no part of a mail receptacle may be used to deliver any matter not bearing postage.

In 151 add 151.5 through 151.59 as follows:

151.5 Curbside Mailboxes, City, Rural, and Highway Contract Routes

Manufacturers of all mailboxes designed and manufactured to be erected at the edge of a roadway or curbside of a street to be served by motorized carrier from the vehicle on city, rural, and highway contract routes must obtain approval of their products in accordance with USPS-STD-7 (U.S. Postal Service Standard, Mailboxes, City and Rural Curbside).

151.511 Dimensions and Styles

(a) Three approved standard sizes and two styles of boxes are approved for use on city, rural, and highway contract routes:

TRADITIONAL AND CONTEMPORARY BOX STYLES

Size	Length*	Width*	Height*
1 and C1	19"	6 1/2"	8 1/2"
2 and C2	21"	8"	10 1/2"
3 and C3	23 1/2"	11 1/2"	13 1/2"

* Dimensions given in approximate inches.

(b) In General, boxes may be constructed in any size between the maximum and minimum outside dimensions specified on approved drawings, provided the height, width, and length proportions and the general shape are maintained.

151.512 Drawings

Construction standards and drawings (USPS-STD-7) for guidance in the manufacture of curbside mailboxes may be obtained by writing to the Delivery Management Division, Delivery, Distribution and Transportation Department, U.S. Postal Service, 475 L'Enfant Plaza, SW., room 7142, Washington, DC 20260-7151.

151.513 Application for Approval

To secure approval of a curbside mailbox, the following must be submitted to the Engineering and Development Center, Delivery Equipment Division, U.S. Postal Service, 8403 Lee Highway, Merrifield, VA 22082-8101. Manufacturers also must notify the Delivery Management Division by letter that mailboxes are being submitted for approval. See 151.512 for address.

(a) Not less than two complete boxes, including markings required in Paragraph 3.7 of USPS-STD-7 (Standard 7), of each style made of exact materials, construction, coatings, paint, etc., including the panels required by Paragraph 3.14.8 of the Standard 7, and otherwise identical in every way with the boxes intended to be marketed.

(b) A copy of the instructions required by Paragraph 3.11 of the Standard 7.

(c) Color samples showing all color schemes to be used (d) Boxes or packaging of the type proposed for shipping production units.

(e) Documentation—The units submitted for approval must be accompanied by two complete sets of manufacturing drawings and installation instructions, showing that the units supplied meet the requirements of Standard 7. The drawings must be dated, signed, and certified to represent the production units exactly as submitted. The drawings must include sufficient details to allow the Postal Service to document and inspect all materials, construction methods,

processes, coatings, treatments, finishes, control specifications, parts, and assemblies used in the construction of the units. The Postal Service may request individual piece parts to verify drawings. No changes may be made by the manufacturer to its products or drawings without written notification of an approval from the Postal Service. Any changes must be submitted with an explanation of the reasons in writing and also documented in the revision block of the affected drawing(s). Two units of each type with the changes incorporated must be submitted for testing and approval. All changes are subject to written approval by the Postal Service.

(f) Boxes that are approved will be retained after testing by the Postal Service. Boxes disapproved may be disposed of or returned to the manufacturer, if requested, provided the manufacturer pays the shipping costs.

(g) Approval or Disapproval—One set of manufacturing drawings, together with written notification of approval or disapproval, including reasons for disapproval, will be returned to the manufacturer. The drawings will be stamped and identified as representing the production unit type if the box is approved. The decision to approve or disapprove boxes is issued by the Office of Delivery and Retail Management. All correspondence and inquiries must be directed to this office at the address listed in 151.512 above and in paragraph 1.3.2 of the standards.

(h) Production Units—Manufacturers' production units must be constructed in accordance with the identified (stamped) drawings and provisions of USPS-STD-7, and be of the exact materials, construction, coating, workmanship, finish, etc., as the approved units. Manufacturers must receive written approval from the Postal Service before making any change to the unit or the identified design drawings. Approval for changes requires resubmission of units for testing and updated drawings for review. The Postal Service reserves the right at any time to examine and retest production units either obtained in the general marketplace or from the manufacturer, and may require the manufacturer to provide units for examination and testing. Failure of these production units to be manufactured in strict accordance with the approved units, the identified drawings, and the provisions of USPS-STD-7 may result in the rejection of units and the suspension or revocation of the manufacturer's authorization as an approved manufacturer through a decision issued by the Office of Delivery and Retail Management.

(i) Packaging—The box and accessories must be packaged in a manner which will ensure arrival at destination in satisfactory condition. The box must be shipped fully assembled except that the following parts may be removed if necessary to protect them from damage: protruding portions, such as door latching hardware, mounting adapters, and mounting posts or stands. Containers and packing must comply with the National Motor Freight Classification Rule 222, section 2 and 3. The boxes must be suitably wrapped or protected and packaged in separate containers so as to prevent damage to painted surfaces by rubbing against the internal surfaces of the container, or by rubbing against other parts.

Part 151.514 Marking

All boxes must have the following legible inscriptions on the carrier service door: "U.S. MAIL and "APPROVED BY THE POSTMASTER GENERAL". The markings shall be accomplished by embossing on sheet metal, raised lettering on plastic, or engraving on wood or other materials not suitable for embossing. The name and address of the manufacturer and the month and year of manufacture shall also be noted on the box on the rear or on an inside wall of the box. This marking shall be accomplished by embossing on the rear wall or a permanent decal on the inside of the box near the front opening.

Part 151.515 List of Approved Manufacturers. Following is a list of manufacturers of standard and contemporary curbside receptacles whose boxes have been approved by the Postal Service:

Approved manufacturers	Type of Mailbox
Add On's by Fischer P.O. Box 746 Huntley IL 60142-0746	C1
Armor Plate Mailbox Inc. P.O. Box 1060 Sterling Heights MI 48311-1060	C1
Bacova Guild Ltd. Bacova VA 24122-9999	C1
Mr Jerry Ballinger 5119 West U Avenue Schoolcraft MI 49087-9769	C1
Beacon Products Inc. 6065A 17th Street East Bradenton FL 34203-5002	C, 2
Carmel Wood Products 24723 Upper Trail Carmel CA 93923-8343	C1
Chicago Heights Furnace Supply Co. Inc. 94 104 East 22nd Street Chicago Heights IL 60411-4263	1, 2, 3
Decor House P.O. Box 1108 Temple TX 76503-1108	C1

Approved manufacturers	Type of Mailbox
EZ Mail Corporation 82 Carroll Avenue P.O. Box 4038 Bridgeport CT 06607-4038	1, C1
Innovative Plastics Corporation 400 Route 303 Orangeburg NY 10962-1395	2
The Jarzer Corporation 5898 Tibby Road Bensalem PA 19020-1122	C1
Leigh A Harrow Company 411 64th Avenue Coopersville MI 49404-1234	C1
Macklanburg Duncan P.O. Box 25188 Oklahoma City OK 73125-0188	1, C1
Northwest Metal Products Division of Noll Manufacturing Company P.O. Box 10 Kent WA 98035-0010	1
Norwell Manufacturing Company Inc. 82 Stevens Street East Taunton MA 02718-1398	C1
Parker Mailboxes Company 9571 Hoke Brady Road Richmond VA 23231-9744	C1
Pony Express Manufacturing P.O. Box 7916 Nashua NH 03060-7916	C
Safe T Box Corporation Route 1 Box 404 Washington WV 26181-9743	C1
Shelfter Inc. P.O. Box 30011 Indianapolis IN 46230-0011	1
Steel City Corporation P.O. Box 1227 Youngstown OH 44501-1227	1, 2, 3, C
The Country Corner P.O. Box 18 Orchard Park NY 14127-0018	C1
The Solar Group Southern Gemini P.O. Box 525 Taylorsville MS 39168-0525	1, 2, 3, C2
Timely Industries Inc. 701 Montrose Avenue South Plainfield NJ 07080-1887	1, 2, C2
Trailside Mailbox Inc. 1993 Stonehenge Drive Lafayette CO 80026-9115	C1
Tuckey Metal Fabricators P.O. Box 720 Carlisle PA 17013-0720	C1
Veeder Mailbox Inc. P.O. Box 42048 Cincinnati OH 45242-0048	1, 2
Wood Quarters Inc. 7914 Ridgewood Drive Jenison MI 49428-7923	C1

T 1—Traditional Curbside Box Size No. 1.

T 2—Traditional Curbside Box Size No. 2.

T 3—Traditional Curbside Box Size No. 3.

C—Contemporary Curbside Boxes.

Part 151.516 Custom-Built Curbside Mailboxes. Postmasters are authorized to approve curbside mailboxes constructed by individuals who, for aesthetic or other reasons, do not wish to use an approved manufactured box. The custom-built box must conform

generally to the same requirements as approved manufactured boxes relative to the flag, size, strength, and quality of construction.

Part 151.52 Painting and Identification. The Postal Service prefers that curbside boxes and posts or supports be painted white, but other colors may be used if desired. Where box numbers are used, the box number must be inscribed in contrasting color in neat letters and numerals not less than 1-inch high on the side of the box, visible to the carrier's regular approach, or on the door if boxes are grouped. Where street names and house numbers have been assigned by local authorities, and the postmaster has authorized use of a street name and house numbers as a postal address, the house number must be shown on the box. If the box is located on a different street from the customer's residence, the street name and house number must be inscribed on the box. The placing of the owner's name on the box is optional. Advertising on boxes or supports is prohibited.

Part 151.531 Construction. Posts or other supports for curbside boxes must be neat and of adequate strength and size. They may not be designed to represent effigies or caricatures which would tend to disparage or ridicule any person. The box may be attached to a fixed or movable arm.

Part 151.532 Newspaper Receptacles. A receptacle for the delivery of newspapers may be attached to the post of a letterbox which is used by the Postal Service, provided: no part of the receptacle touches or is attached to or is supported by any part of the mailbox, interferes with the delivery of mail, obstructs the view of the flag, or presents a hazard to the carrier or his vehicle. The receptacle must not extend beyond the front of the box when the box door is closed. No advertising shall be displayed on the outside of the receptacle, except that the name of the publication may be shown.

Part 151.54 Location. Curbside boxes must be placed so that they may be safely and conveniently served by carriers without leaving their conveyances, and must be located on the right-hand side of the road in the direction of travel of the carriers in all cases where traffic conditions are such that it would be dangerous for the carriers to drive to the left in order to reach the boxes, or where their doing so would constitute a violation of traffic laws and regulations. (Exception: See 156.312.) On new rural routes or highway contract routes, all boxes must be located on the right side of the road in the direction of travel by the carrier. Boxes must be placed to conform with

state laws and highway regulations. Carriers are subject to the same traffic laws and regulations as are other motorists. Customers must remove obstructions, including vehicles, trashcans, and snow, which make delivery difficult. Generally, customers should install boxes with the bottom of the box at a vertical height of between 3½ and 4 feet from the road surface. However, because of varying road and curb conditions and other factors, the Postal Service recommends that customers contact the postmaster or carrier before erecting or replacing their mailboxes or supports.

Part 151.55 Grouping. Boxes on rural routes and highway contract routes should be grouped wherever possible, especially at or near crossroads, at service turnouts, or at other places where a considerable number of boxes are presently located.

Part 151.56 More Than One Family. More than one family, but not more than five families, on rural routes and highway contract routes, may use the same box, provided a written notice of agreement, signed by the heads of the families, or by the individuals who desire to join in the use of such box, is filed with the postmaster at the distributing office.

Part 151.57 Locks. The use of locks on boxes on rural routes and highway contract routes is not required. If however, a box is equipped with a lock, the box must have a slot large enough to accommodate the customer's normal daily mail volume. The Postal Service will not open boxes which are locked and will not accept keys for this purpose.

Part 151.58 Unstamped Newspapers. Mail receptacles are to be used for mail only, except that publishers of newspapers regularly mailed as second-class mail may, on Sundays and national holidays only, place copies of the Sunday or holiday issues in the rural and highway contract route boxes of subscribers, with the understanding that copies will be removed from the boxes before the next day on which deliveries are scheduled.

Part 151.59 Nonconforming Boxes. Carriers will report to the postmaster any boxes which do not conform to the regulations. The postmaster will send to the owner of these boxes Form 4056, *Your Mailbox Needs Attention*, requesting that the irregularities or defects be remedied.

* * *

PART 155—CITY DELIVERY

4. In 155 revise the first sentence of 155.41a to read as follows:

155.41 Obligation of Customer

a. Customers of the carrier delivery service must provide authorized receptacles (see section 151.5) or door slots, except for mail receptacles specifically authorized by the Postal Service to be owned and maintained by the Postal Service.

PART 156—RURAL SERVICE

5. In 156 revise 156.26 and replace 156.5 as follows:

156.26 Highway Contract Delivery. Persons residing on roads traveled by both rural and highway contract carriers may qualify as customers of either or both routes. If one box is used for both routes, it must be an approved receptacle (see 151.5).

156.5 Rural Boxes. Rules setting specifications for rural boxes, and other provisions concerning the installation, location, and use of boxes are set forth in 151.5.

PART 157—HIGHWAY CONTRACT SERVICE

6. In 157 revise 157.32c and 157.4 to read as follows:

Part 157.32 Availability.

(c) either erect a curbside mailbox approved under the procedures in 151.5 on the highway contract route carrier's existing line of travel or are authorized to receive delivery through neighborhood delivery and collection boxes and parcel lockers owned and maintained by the Postal Service.

157.4 Location of Receptacles. Approved curbside mailboxes (151.5) or approved sacks or satchels must be placed where they protect mail and may be conveniently served by carriers without leaving their vehicle. They must be located on the right side of the road in the direction of travel, when required by traffic conditions, or when driving to the left to reach the boxes would constitute a violation of traffic laws by the carrier. In such cases, customers desiring service on both outward and return trips of the carrier must furnish a box, sack, or satchel on each side of the road.

An appropriate notice and amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted. The proposed

revision of USPS-STD-7 is set forth in the following exhibit.

Stanley F. Mires,
Assistant General Counsel Legislative
Division.

Exhibit—U.S. Postal Service Standard Mailboxes, City and Rural Curbside, USPS-STD-7

1. Scope and Classification

1.1 Scope—This standard covers all city and rural curbside mailboxes.

1.2 Classification—Curbside mailboxes must be of the following types and sizes:

Type I—Box, Traditional, Curbside Mail

Size T1—See Drawing 3730-0310, RD-4

Size T2—See Drawing 3730-0310, RD-5

Size T3—See Drawing 3730-0310, RD-6

Type II—Box, Contemporary, Curbside Mail

Size C1—18½" × 5" × 6"

Size C2—19½" × 6" × 7"

Size C3—22½" × 8" × 11½"

Minimum Parcel Size Acceptable

(Applicable to both Types I and II)

ASTM D968—Standard Test Methods for Abrasion Resistance of Organic Coatings by Falling Abrasive

ASTM E308—Method for Computing the Colors of Objects by Using the CIE System

ASTM E313—Standard Test Method for Indexes of Whiteness and Yellowness of Near-White, Opaque Materials

ASTM G26—Standard Practice for Operating Light-Exposure Apparatus (Xenon-Arc Type) with and without Water for Exposure of Nonmetallic Materials

Copies of the preceding documents may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1108.

Other Documents

AWS C1.1—Recommended Practices for Resistance Welding

ANSI/AWS A2.4—Standard Symbols for Welding, Brazing and Nondestructive Examination

ANSI/AWS D9.1—Specification for Welding of Sheet Metal

AWS WHB-4 Ch 8—Aluminum Alloys—Welding Handbook

Copies of the preceding documents may be obtained from the American Welding Society, 2501 NW 7th St., Miami, FL 33125-3136.

National Motor Freight Classification Rules**1.3 Approved Manufacturers**

1.3.1 Approved Manufacturers—Manufacturers whose boxes have been approved by the United States Postal Service (USPS) will be listed in the Domestic Mail Manual (DMM).

1.3.2 Interested Manufacturers—Manufacturing standards and drawings concerning the manufacture of curbside mailboxes may be obtained by writing to: DELIVERY MANAGEMENT DIVISION, US POSTAL SERVICE, 475 L'ENFANT PLAZA, SW., ROOM 7142, WASHINGTON, DC 20260-7151, Telephone: (202) 268-3608

2. Applicable Documents

2.1 Government Documents—The following documents of the latest issue are

incorporated by reference as part of this standard.

Specifications

MIL-T-704—Treatment and Painting of Materiel

MIL-A-8625—Anodic Coatings, for Aluminum and Aluminum Alloys

MIL-W-8858—Welding, Resistance: Spot and Seam

Standards**Military**

MIL-STD-171—Finishing of Metal and Wood Surfaces

Federal

FED-STD-406—Flammability of Plastic over 0.050 Inch in Thickness

FED-STD-595—Colors Used in Government Procurement

Copies of federal specifications and standards may be obtained from the General Services Administration, Specification Section, Room 6654, 7th and D Streets, SW., Washington, DC 20407-9999.

Copies of military specifications and standards may be obtained from the Standardization Documents Order Desk, 700 Robbins Ave., Building 4, Section D, Philadelphia, PA 19111-5094.

2.2 Non-Government Documents—The following documents of the latest issue are incorporated by reference as part of this standard.

American Standards for Testing Materials (ASTM)

ASTM B117—Standard Test Methods of Salt Spray (Fog) Testing

Copies of the preceding document may be obtained from the National Motor Freight Traffic Association, 2200 Mill Rd., Alexandria, VA 22314-4687.

2.3 Except where specifically noted, the specifications set forth herein shall apply to both Type I and Type II boxes.

3. Requirements

3.1 General Design—All mailboxes must be capable of passing the load tests specified in table 1 and Figure 1. All plastic mailboxes must withstand an impact of a 10-pound weight being dropped 3 feet. Mailboxes made of plastic, wood, or other material that normally sustains a flame must be self-extinguishing. The mailbox must not contain any transparent material. No attachments are permitted on any mailbox. No shapes or protrusions are permitted on the mailbox except as approved and do not interfere with mail delivery nor present a safety hazard. The box must be free from harmful projections, burrs, sharp edges, or other features that may be hazardous to carriers or customers or interfere with delivery, and must positively protect mail from all types of weather. All seams and joints must be tight to prevent loss of or damage to any mail placed in the box.

3.1.1 Type I, Traditional Design—The general configuration of the box must conform to USPS Drawings RD-4, RD-5, and RD-6. Minor design and construction changes may be considered for approval, provided

they are equal to or better than the features they replace, and provided the operation of the box is unchanged.

3.1.2 Type II, Contemporary Design—The general configuration of the box must conform to USPS collection and delivery operations and requirements. Designs of the contemporary rural mailboxes are not restricted to shape, material, finish, or style; however, boxes must be designed and constructed so that they may be serviced in the same manner as the traditional curbside mailbox. The mailbox must be designed to allow for all mail (outgoing and incoming) to be inserted and retrieved in a horizontal manner. The bottom of the mailbox must contain no lip or protrusion that could restrict the mail from being pulled straight out of the box. The mailbox may contain only a front door or it may contain front and rear doors to enable the customer to remove mail without standing in the street.

The bottom of the box must be corrugated, ribbed, or otherwise formed similar to the bottom of the Type I boxes (with ribs .08 ± .015 inch wide and .10 ± .015 inch high on 1 ± .015 inch centers) to prevent mail from adhering to it as a result of moisture, rain or snow entering through an open door. Provisions must be incorporated to prevent damage or destruction of finishes by moving parts of the box.

3.2 Materials—Ferrous or nonferrous metals, wood, plastics, or other materials may be used, as long as their thickness, form, mechanical properties, and chemical properties adequately meet the operational, structural, and performance requirements set forth in this standard. Materials used must be compatible with each other and must be nontoxic and nonirritating to humans.

3.3 Carrier Service Door—The carrier service door must operate freely by pulling outward and downward with a convenient handle or knob at the top of the door. The handle or knob must have adequate clearance to permit grabbing and pulling it with one hand (with or without gloves) to open the door. No protrusions other than the handle, knob, door catch and marking are permitted on the carrier service door. The design of the door hinges, handles, etc. must provide the maximum protection against wind, rain, sleet, or snow. Door latches must hold the door closed but allow easy opening and closing. The door must be capable of operating 7,500 normal operating cycles without breakage or failure to operate correctly. Action of the latch must be a positive mechanical one not relying solely on friction of the parts. The door must not be spring loaded. Magnetic latches are acceptable provided adequate closure power is obtained and maintained. The door, once opened, must remain in the open position until the carrier pushes it closed. Doors or door attachments that reduce the usable volume within the box or protrude into the opening of the box are not acceptable.

3.4 Auxiliary Doors—Doors other than the carrier service door must not interfere with the normal servicing of the box by the carrier or require the carrier to perform any unusual operations. The auxiliary door must not open as a result of newspapers, parcels, or other mail items being inserted through the carrier door.

3.5 Locks—The box may be provided with an effective means of locking, but the use of locks is not required. If the box is equipped with a lock, the box must have a slot large enough to accommodate the customer's normal daily mail volume. The Postal Service will not open boxes that are locked, accept keys for this purpose, or lock boxes after delivery of the mail.

3.6 Carrier Signal Flag

3.6.1 Type I, Traditional Design—The carrier signal flag must be as shown on the drawings. The flag must be on the right side when facing the box from the front. The flag centerline must be no farther back from the foremost projection of the box (excluding protruding catch hardware) than 2 inches. When the flag is in the raised position, not less than 6 square inches of the signal portion must be visible above the top of the box and the flag may project not less than 2 inches above the top of the box. The signal portion of the flag must be in a plane perpendicular to the road or street on which the box is located. No portion of the flag must extend beyond the top outline of the box when the flag is in the lowered position. The flag operating mechanism must operate properly and positively, without binding or excessive free play, must not require lubrication, and must be resistant to freeze-up at temperatures specified under ambient conditions (3.13). The flag must be capable of operating 7,500 normal operating cycles without breakage or failure to operate correctly. The flag must not be free to rotate more than 100 degrees and must remain in a locked point in either the vertical or horizontal position until repositioned by the customer or carrier.

3.6.2 Type II Contemporary Design—The carrier signal flag must be of a contemporary design or similar to that used on the Type I box and must operate freely. The flag may incorporate a self-lowering feature that automatically drops to the lowered position when the carrier door is opened. The flag must be located on the right side when facing the box from the front. The flag staff centerline must be no farther back from the foremost projection of the box (excluding protruding catch hardware) than 2 inches. When the flag is in the raised position, not less than 6 square inches of the signal portion must be visible above the top of the box and the flag must project not less than 2 inches above the top of the box. The signal portion of the flag may be in a plane perpendicular to the road or street on which the box is located. No portion of the flag must extend beyond the top outline of the box when the flag is in the lowered position. The flag operating mechanism must operate properly and positively, without binding or excessive free play. The operating mechanism must not require lubrication, and must be resistant to freeze-up temperatures specified under ambient conditions (3.13). The flag must be capable of operating 7,500 normal operating cycles without breakage or failure to operate correctly. The flag must not be free to rotate more than 100 degrees and must remain in a locked point in either the vertical or horizontal position until repositioned by the customer or carrier.

3.7 Marking—The box must bear two inscriptions on the carrier service door: "U.S.

MAIL" in 1.0 ± .2 inch high letters and "Approved By The Postmaster General" in .25 ± .06 inch high letters. The markings must be accomplished by embossing on sheet metal, raised lettering on plastic or engraving on wood or other materials not suitable for embossing. All markings must be raised or incised enough to be easily read. The name and address of the manufacturer and the month and year of manufacture must also be noted on the box on the rear or on an inside wall of the box. This marking must be accomplished by embossing on the rear wall or placing a permanent decal on the inside of the box near the front opening.

3.8 Coatings and Finishes—Choice of materials for coatings and finishes is optional, provided all requirements of this standard are met. All finish coatings must be free from flaking, peeling, cracking, crazing, blushing, as well as orange peel and powdery surfaces. Finishes must be compatible with the box materials, and must be prepared by primers or other protective procedures. All painted mailboxes must be coated with a minimum of 3 mils of paint. Mirror-like finishes and coatings on large flat areas, which might cause reflected glare in motorists' eyes from the sun or vehicle lights will not be approved. No part of the coating or finish may show corrosion, blistering, peeling or other destructive reaction after 200 hours of the salt fog environment. The coating or finish is considered to fail the sand abrasion test if less than 15 liters of sand is required to penetrate a coating or if less than 75 liters of sand is required to penetrate any plating.

3.9 Color—Color intensity and yellowness indexes must not lose or gain more than 10 percent of their original values.

3.9.2 Boxes—The box may be any color. Colors and color schemes may be of a hue, saturation, and brilliance that provide sufficient contrast with normal surroundings to ensure visibility to carrier and persons using the road or street.

3.9.2 Carrier Signal Flags—The carrier signal flag must be any contrasting color with the exception of any shade of green, brown, or white and must be painted with high gloss paint. The flag color must not be used on any other portion of the box.

3.10 Mounting—The box must be provided with means for convenient and secure mounting. Types of mounting such as a metal post or stand may be offered by the manufacturer as an accessory. No part of the box mounting apparatus must project beyond the front or rear of the mounted box or interfere with the door(s). Mounting must not require the use of tools other than a hammer, screwdriver or common wrench unless such special tools are furnished with the box or accessory.

3.11 Instructions—A complete set of instructions for assembling and mounting the box must be furnished with each box. The instructions must include the following message in bold print:

CUSTOMERS ARE REQUESTED TO CONTACT THE LOCAL POST OFFICE BEFORE ERECTING THE BOX TO ENSURE ITS CORRECT PLACEMENT AND HEIGHT AT THE STREET.

3.12 Workmanship—Workmanship must be of the highest quality throughout. Highest quality is defined as the following: All parts and assemblies must be clean, straight, accurately formed and assembled, properly fitted, and uniform in size and shape. Parts must be free from delaminations, cracks, warpage, bulges, kinks, dents, porosity, voids, peelings, lumps, foreign matter, or other defects. All plastic parts must be free from flashing, injection header or mold marks, undercuts, voids, surface defects, or visual stresses. Plastic units must be free from releasing agents and any outgassing condition. Finished or coated surfaces must be smooth and uniform, and free from soft areas, stains, chips, color variations, runs, sags, peeling, bubbling, crazing and cracks. Seams and connections must be tight. Rivets must be installed in the rivet manufacturer's recommended hole diameter, be tight, have uniformly formed heads, and must not contain sharp burrs. Welding must be uniform, clean, and positioned properly, must use the correct amperage, and must be inspected as specified by AWS D9.1. The units must be free from sharp edges or corners, burrs, protruding rivets or screws, and design features or details including outside edging, doors, and underside that might injure or hamper carriers or customers using the box.

3.13 Ambient Conditions—The box must protect mail placed inside and must operate properly when subjected to the following ambient conditions: temperatures of -65 degrees Fahrenheit to +140 degrees Fahrenheit; relative humidities of 0 to 100 percent (limited by 35 degrees Fahrenheit dewpoint temperature); full solar radiation; snow and freezing rain; heavy rainstorms during which the rain strikes the box at any angle from 0 degrees (vertically downward) to 90 degrees (horizontal); wind velocities up to 100 miles per hour; water and slush thrown upwards by vehicles.

3.14 Testing Requirements—Two mailboxes/units of each type must be submitted for testing as specified herein. Test mailboxes must be submitted in packaging identical to that of the production units. Units which fail to pass any test will be rejected and failure of one type of unit can be cause for rejection of all of the units submitted by the manufacturer.

3.14.1 Operational Requirements—Carrier service doors, auxiliary doors, door catches and mechanisms, carrier signal flags, and accessory devices must be capable of operating 7,500 normal operating cycles at room temperature without breakage of parts while continuing to operate correctly and positively.

3.14.2 Structural and Performance Requirements—Refer to Figure 1 for an explanation of load positions, method of application and bolster plates to be used. At positions 1 through 4 and at position 7, the box must be supported on a horizontal board in a normal fashion. At positions 5 and 6, the load must be applied with the unmounted (without board or adapters) box lying on its opposite side (flag side up). The door(s) is in a closed position for loads in positions 1 through 6. For position 7, the door must be placed in its maximum open position and a

load applied normal to the door surface. If the door is free to rotate greater than 120 degrees from the closed position, this part of the structural test is not required. Immediately after release of the slowly applied load in each position, permanent deformation of the box in the load direction must not exceed the permanent deformation indicated from the loads shown on Table I. Cracks in the material must not develop as a result of the load or cause the door to become inoperable. At position 6, the flag must be capable of withstanding an 8-pound load applied at the top of the flag without exceeding permanent deformation specified in Table I.

TABLE I.—PERMANENT DEFORMATION LIMITS

Position	Deformation (inches)	Load (pounds)
1.....	1/8	200
2.....	1/8	200
3.....	1/8	50
4.....	1/8	50
5.....	1/8	100
6.....	1/8	8
7.....	1/8	8

3.14.3 Impact Test—Refer to the Figure 1 for load position. Precondition the box for 4 hours at -20 degrees Fahrenheit. At position 3, with the unmounted box (without board or adapters) lying on its side (flag side up), apply an impact load equivalent to a 10-pound weight dropped from a distance of 3-feet above the box surface onto a bolster plate having a surface not larger than 2 inches by 2 inches. The door(s) is in a closed position for this test. Repeat the impact load at position 4. No perforation, occurrence of sharp edges, or cracking of the material, either inside or outside the box, may develop as a result of the impact, nor may the door become inoperable or fail to close normally.

3.14.4 Coating and Abrasion Resistance—The coating of all painted units must meet the abrasive test specified herein. The test must be conducted in accordance with ASTM D-968, Method A for Abrasion resistance of Coatings of Paint, Lacquer, and Related Products by the Falling Sand Method, rate of flow of 2 liters of sand in 22±3 seconds. The box is considered to fail this test if less than 15 liters of sand is required to penetrate painted coatings, or if less than 75 liters of sand is required to penetrate plating or protective coatings.

3.14.5 Salt Spray Resistance—A salt spray test must be conducted in accordance with ASTM B-117, Standard Method of Salt Spray (Fog) Testing. A 5 percent salt solution at 95 degrees Fahrenheit will be used. The salt test must be operated for 200 continuous hours. Units must be tested in a finished condition, including all protective coating, paint, and mounting hardware but must be thoroughly washed when submitted to remove all oil, grease, and other nonpermanent coatings. No part of the units may show finish corrosion, blistering or peeling, or other destructive reaction after 200 hours of continuous exposure. Corrosion is defined as any form of property change such as rust, oxidation, color changes,

perforation, accelerated erosion, or disintegration. The build-up of salt deposits upon the surface will not be cause for rejection. However, any corrosion, paint blistering, or paint peeling is cause for rejection. The plastic units must be similarly exposed to test any metal hardware used in the construction or mounting of the units.

3.14.6 Flammability—Testing is performed in accordance with FED-STD-406, Method 2021. Cut a specimen 5 inches long by 1/2 inch wide. Scribe the specimen 1/2 inch from the end and three more times at 1-inch intervals. The specimen support fixture should hold the flammability sample with its longitudinal axis horizontal and its transverse axis inclined at 45 degrees to the horizontal. Apply a flame at the end of the sample for 30 seconds or until the flame reaches the first scribe mark. When the flame reaches this point, start a stopwatch and stop the stopwatch when the flame reaches the final scribe mark. If the flame goes out prior to this point, the sample is considered "self-extinguishing." If the burning rate exceeds 3 inches in 3 minutes, the unit is rejected.

3.14.7 Watertightness—Each mailbox is subjected to a heavy spray of water, equivalent to 3 to 5 inches per hour, for a period of 15 minutes for each side. The spray is directed downward at an angle of 0 to 90 degrees from the vertical. At the conclusion of the test, the outside of the unit is wiped dry and doors are opened. The inside of the compartment must contain no water other than that produced by high moisture condensation.

3.14.8 Solar Exposure/Weathering—Twelve 3-inch by 6-inch panels of the material(s) used in the boxes must be submitted with the mailboxes for solar exposure/weathering testing. Panel thickness must be the same thickness as that of the submitted mailbox walls and door. All metal panels must be finished in the same manner as the mailbox. Plastic panels must be submitted in a natural state (without paint). The test is conducted in accordance with ASTM G-26 using a spectral irradiance level of 0.35 watts per meter squared per nanometer band at 340 nanometers, a black panel temperature of 145±5 degrees Fahrenheit and a relative humidity of 50±5 percent. Both Method 1 for weathering painted panels and Method 3 for UV degradation testing of painted panels and plastic panels must be conducted. The test is conducted for 336 hours. Any blistering, peeling or cracking of the paints is cause for rejection. Any blistering, cracking, disintegration or embrittlement of the plastic is cause for rejection. The test required by 3.14.10 will be performed before and after this test. The color intensity must not lose more than 10 percent of its original value when measured in 3.14.10.

3.14.9 Capacity—Conformance to 1.2 of this standard must be tested by insertion and removal of a test gauge for each size mailbox as follows:

Size	Test gauge (inches)
T1 and C1.....	18 1/2 x 5 x 6
T2 and C2.....	19 1/2 x 6 x 7
T3 and C3.....	22 1/2 x 8 x 11 1/2

The test gauge for each size mailbox must be easily inserted and removed from each size mailbox and allow for the door(s) to be completely closed without interference.

3.14.10 Color Intensity—Color intensity must be measured in accordance with ASTM E-308 using the CIE method. A yellowness index must be measured using ASTM E-313. Color intensity and yellowness indexes must not lose or gain more than 10 percent of their original values when subjected to environmental conditions in 3.14.8.

4. Approval.

4.1 Application Requirements—All correspondence and inquiries must be directed through the Delivery Management Division, U.S. Postal Service, 475 L'Enfant Plaza S.W., Washington, DC 20260-7151. The manufacturer must notify the Delivery Management Division that mailboxes are being submitted for approval. To secure approval of a box, manufacturers must submit the following to the Engineering & Development Center, Delivery Equipment Division, U.S. Postal Service, 8403 Lee Highway, Merrifield, VA 22082-8101:

4.1.1 Not less than two complete boxes, including markings required in 3.7, of each style made of the exact materials, construction, coatings, paint, etc., including the panels required by 3.14.8 and otherwise identical in every way with the boxes intended to be marketed.

4.1.2 A copy of the instructions required by 3.11.

4.1.3 Color samples showing all color schemes expected to be used.

4.1.4 The boxes in the packaging proposed for shipping production units.

4.1.5 Documentation—The units submitted for approval must be accompanied by two complete sets of manufacturing drawings and installation instructions consisting of black on white prints (blueprints or sepia are unacceptable) showing that the units supplied meet the requirements of this standard. The drawings must be dated, signed, and certified to represent the production units exactly as submitted. The drawings must include sufficient details to allow the USPS to document and inspect all materials, construction methods, processes, coatings, treatments, finishes, control specifications, parts and assemblies used in the construction of the units. The USPS may request individual piece parts to verify drawings. No changes may be made by the manufacturer to its products or drawings without written notification of and approval from the USPS. Any changes must be submitted with an explanation of the reasons written in a letter and also documented in the revision block of the affected drawing(s). Two units of each type with the changes incorporated must be submitted for testing and approval. All changes are subject to USPS written approval.

4.1.6 Boxes that are approved will be retained after testing by the USPS. Boxes disapproved may be disposed of or returned to the manufacturer, if requested, provided the manufacturer pays shipping costs.

4.2 Approval or disapproval—One set of manufacturing drawings, together with written notification of approval or disapproval, including reasons for disapproval, will be returned to the manufacturer. The drawings will be stamped and identified as representing the production unit type if approval notification is used. The USPS Office of Delivery and Retail Management will issue the written notification of approval or disapproval of the mailboxes. All correspondence and inquiries must be directed through that office at the address listed in 1.3.2.

4.3 Production Units—Manufacturer's production units must be constructed in accordance with the identified (stamped) drawings and provisions of this specification, and be of the exact materials, construction, coatings, workmanship, finish, etc. as the approved units. Manufacturers must receive written approval from the USPS before making any change to the unit or the identified design drawings. Approval for changes requires resubmission of units for testing and updated drawings for review. The USPS reserves the right at any time to examine and retest production units either obtained in the general marketplace or from the manufacturer and may require the manufacturer to provide units for examination and testing. Failure of these production units to be manufactured in strict accordance with the approved units, the identified drawings, and the provisions of this specification may result in the rejection of units and the suspension or revocation of the manufacturer's authorization as an approved manufacturer. Suspension or revocation of the manufacturer's authorization as an approved manufacturer will be issued by the USPS Office of Delivery and Retail Management.

5. Preparation for Delivery.

5.1 Packaging—The packaged mailbox and accessories must be packaged in a manner that will ensure arrival at destination in satisfactory condition. The box must be shipped fully assembled except that the following parts may be removed if necessary to protect them from damage: protruding portions, such as door latching hardware, mounting adapters, and mounting posts or stands. Containers and packing must comply with the National Motor Freight Classification Rule 222, Sections 2 and 3. The boxes must be suitably wrapped or protected and packaged in separate containers to prevent damage to painted surfaces by rubbing against the internal surfaces of the container or against other parts.

[FR Doc. 91-12961 Filed 5-30-91; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 910510-1110]

RIN No. 0648-AE16

Marine Mammals; Fur Seal Act Regulations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed rulemaking, request for comments and notice of public meeting.

SUMMARY: NMFS issues this notice of proposed rulemaking to solicit public comments on the amendment to that portion of the Fur Seal Act regulations which authorizes the Assistant Administrator for Fisheries (Assistant Administrator), NOAA, to extend the subsistence harvest of fur seals in the Pribilof Islands beyond August 8. This action is being considered to ensure that no harvesting of seals will occur during times when female seals are on the rookeries and other harvest areas. The proposed action is being considered because the northern fur seal *Callorhinus ursinus*, the object of the harvest, is designated a depleted species pursuant to the Marine Mammal Protection Act (MMPA) and the taking of female seals would further decrease the chances of the species returning to optimum sustainable population (OSP) level. The Pribilofians have requested that the removal of the harvest extension option be offset by amending the regulations to allow the harvest to begin one week earlier (on June 23 instead of June 30).

DATES: Comments on this proposed rule must be postmarked on or before July 18, 1991.

ADDRESSES: Send written comments to Nancy Foster, Ph.D., Director, Office of Protected Resources (F/PR), NOAA, 1335 East-West Highway, room 7324, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Aleta Hohn, Ph.D., or Lynne Harris, Permit Division, Office of Protected Resources, 301-427-2289; Steve Zimmerman, Ph.D., Alaska Region, 907-586-7235.

SUPPLEMENTARY INFORMATION: On July 9, 1986, NMFS published an emergency final rule establishing regulations for the subsistence taking of northern fur seals on the Pribilof Islands, Alaska. Among the regulations that were established, 50 CFR paragraph 215.32(f) provides

criteria for terminating the harvest, or for extending the harvest if the subsistence needs of the Pribilofians have not been met.

The Assistant Administrator is required to terminate the harvest when he determines that the subsistence needs of the Pribilofians have been met, or on August 8 of each year, whichever comes first. The August 8 date was chosen to avoid an unacceptable taking of female fur seals. After the first week of August, immature fur seals of both sexes begin to arrive on St. Paul Island in significant numbers. The harem structure in rookery areas breaks down in early August and many females begin using the haul-out areas from which animals are taken for harvesting. Extending the harvest could result in a marked and biologically unacceptable increase in the accidental take of female seals. Two standards of unacceptable levels of female take trigger termination of any harvest extension: (1) When the total number of female seals taken during the harvest exceeds one half of one percent of the total number of seals taken; and (2) when, during the extension period, five female seals are taken within 7 consecutive days.

Six seasons of subsistence harvesting of northern fur seals have been conducted on the Pribilof Islands since 1985. Extensions to the harvest season were requested and granted in 1986 and 1987. Only St. Paul Island exercised the extension option. During the extension period in 1986, at least 359 seals were expected to be harvested, but only 71 were taken on the single day of harvesting (September 27). Of that total, immediate analysis revealed that six of the seals were females and the harvest was suspended. Later analysis of the teeth and reproductive tracts of the seals taken on the single day of harvesting during the extension period revealed that 12 of them were female (17 percent of the day's total). For the 1987 extension period, a total harvest of 211 seals was requested. On the single day of harvesting (September 2), 110 seals were taken. Of that total, it was discovered that five of the seals taken were female, and the harvest was again suspended. Because of this demonstrated risk of taking females after August 8, and the apparent

inability of harvesters to distinguish young males from females, NMFS announced its intent to amend 50 CFR 215.32(f) to eliminate the extension option for 1989 and subsequent years (53 FR 28887, August 1, 1988); however, no action was taken. Harvest extensions were not requested in 1988, 1989, or 1990.

In June 1989, in response to the August 1, 1988, announcement, the Aleut Community of St. Paul Island requested a change in the Fur Seal Act regulations to allow the subsistence harvest to begin June 23, 1 week earlier than the June 30 start date dictated by 50 CFR 215.32(c)(1). They cited a desire for seal meat by community members before June 30, a lack of meat remaining from the previous year's take, and an inability to harvest their quota of seals in the absence of the harvest extension option. The Pribilofians have also indicated that the number of sub-adult males present in haul-out areas in late June is substantially the same as the number present in early July. It therefore appears that sufficient numbers of seals would be available to allow for an earlier start date. Preliminarily, no adverse impact on the seal population is anticipated because only sub-adult males are present in the harvest areas at that time, and all other mandatory controls upon the harvest would apply.

Classification

For reasons discussed in previous environmental impact statements (EIS's), it is hereby determined that the approval and implementation of this proposed rule will not significantly affect the human environment, and that preparation of an EIS on this action is not required by section 102(2) of the National Environmental Policy Act or its implementing regulations.

The Under Secretary of NOAA has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The present action will not have a cumulative effect on the economy of \$100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investments, productivity,

innovation, or competitiveness of U.S.-based enterprises are anticipated.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The only impact will be on individual native Alaskan residents of the Pribilof Islands in the form of a revised calendar for the annual fur seal harvest. Therefore a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

Dated: May 24, 1991.

Samuel W. McKeen,
Program Management Officer, National
Marine Fisheries Service.

For the reasons set forth in the preamble, NOAA proposes to amend 50 CFR part 215 as follows:

PART 215—[AMENDED]

1. The authority citation for 50 CFR part 215 continues to read as follows:

Authority: 16 U.S.C. 1151–1175, 16 U.S.C. 1361–1384.

2. Section 215.32 is amended by removing paragraphs (f)(2) and (f)(2)(i–iii), by redesignating paragraph (f)(1) as (f), and by revising paragraph (c)(1) to read as follows:

§ 215.32 Restrictions on taking.

* * * * *

(c)(1) No fur seal may be taken on the Pribilof Islands before June 23 of each year.

* * * * *

[FR Doc. 91–12943 Filed 5–31–91; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register

Vol. 56, No. 106

Monday, June 3, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Monday, June 10, 1991, and Tuesday, June 11, 1991. The meeting will be held in the Lecture Hall, rooms 121 and 122, at the National Building Museum (Pension Building), 401 F Street, NW. (Judiciary Square), Washington, DC, beginning at 2 p.m. on June 10, and at 8:30 a.m. on June 11.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, and Transportation; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

- I. Chairman's Welcome/Opening.
- II. Council Business.
- III. Section 106 Cases.
- IV. New Business.
- V. Adjourn.

Note: The meetings of the Council are open to the public. If you need special

accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., room 809, Washington, DC, 202-786-0503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004.

Dated: May 29, 1991.

Robert D. Bush,
Executive Director.

[FR Doc. 91-13006 Filed 5-31-91; 8:45 am]

BILLING CODE 4310-10-M

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties" (36 CFR part 800), that a panel of three members of the Council will meet on Wednesday, June 12, 1991, to consider the proposed interpretation and preservation of the remains of the Wesleyan Chapel, Women's Rights National Historical Park in Seneca Falls, New York. The proposal as currently planned would preserve remaining historic fabric within a modern structure and develop commemorative landscape features on the site. This undertaking will affect the Seneca Falls Historic District, which is listed in the National Register of Historic Places.

The panel will meet in Seneca Falls, New York, at the Gould Hotel, 108 Fall Street, at 9:30 a.m. The evening before the meeting, June 11, the panel will hear public testimony. This public hearing will take place at the Gould Hotel, 108 Fall Street, at 7:30 p.m.

The panel welcomes written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by June 4. Persons wishing to make oral statements at the public hearing should contact the Executive Director by June 7, Attention: Druscilla Null (202-786-0505). Priority will be given to those persons who have indicated prior to the meeting their desire to speak.

The Council was established by the National Historic Preservation Act to

advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties that are listed in or eligible for listing in the National Register of Historic Places.

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Places, 1100 Pennsylvania Avenue NW., Suite 809, Washington, DC 20004 (202-786-0505).

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting schedule and location or the submission of statements is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., suite 809, Washington, DC 20004, Attention: Druscilla Null (202-786-0505).

Dated: May 28, 1991.

Robert D. Bush,
Executive Director.

[FR Doc. 91-13007 Filed 5-31-91; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Monthly Retail Trade Survey.

Form Number(s): B-101(87), 102, 103, 111, 112, 113.

Agency Approval Number: 0607-0187.

Type of Request: Extension of a currently approved collection.

Burden: 30,187 hours.

Number of Respondents: 27,675.

Avg Hours Per Response: 14 minutes.

Needs and Uses: The Bureau of the Census uses the Monthly Retail Trade Survey to collect sales data from a sample of retail establishments in the United States. Estimates derived from this survey provide a current statistical picture of the retail portion of consumer activity. The Bureau of Economic Analysis uses the estimates in their preparation of the National Income and

Product Accounts, and their benchmark and annual input-output tables. The Bureau of Labor Statistics uses the estimates as input to its Producer Price Indices and in developing productivity measurements. Other government agencies use the data for planning and development and to gauge the current trends of the economy.

Affected Public: Businesses or other for-profit organizations, Small businesses or organizations.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 29, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization,

[FR Doc. 91-12977 Filed 5-31-91; 8:45 am]

BILLING CODE 3510-07-F

International Trade Administration

Short-Supply Review and Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain rail.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 10,000 metric tons of certain rail for the balance of 1991 under paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products ("the U.S.-Japan Arrangement").

SHORT-SUPPLY REVIEW NUMBER: 51

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and section 357.104(b) of the Department of Commerce's Short-Supply Procedures, (19 CFR 357.104(b) ("Commerce's Short-Supply Procedures"), the Secretary

hereby announces that a short-supply request is under review with respect to 10,000 metric tons of certain "damage-resistant" steel rail. On May 20, 1991, the Secretary received an adequate petition from Burlington Northern Railroad ("BN") requesting a short-supply allowance for 10,000 metric tons of this product for the balance of 1991 under Paragraph 8 of the U.S.-Japan Arrangement. BN is requesting short supply for this material because the potential foreign supplier has no regular export licenses available to ship this product, and potential domestic producers are unable to meet the required specifications.

The requested rail meets the following specifications:

Section of rail: AREA136BN

Type of rail: High Strength Damage Resistant Rail

Standard length: 80 feet and 39 feet

Manufacturing: The steel shall be cast by a continuous casting process and, the bloom shall be free from injurious segregation and pipe

Chemical composition:

Carbon: 0.72-0.82 Percent;

Manganese: 0.80-1.05 Percent;

Phosphorus: 0.030 Percent;

Sulphur: 0.020 Percent;

Silicon: 0.10-0.35 Percent;

Mechanical properties:

0.2 Percent Proof Stress: Min 80 KGF/MM2

Tensile Strength: Min 120 KGF/MM2

Elongation: Min 10 Percent

Surface hardness:

(Brinell hardness) 350-388 at rail head corner/shoulder and head side portions

(Brinell hardness) 300-340 at rail head center portion

Workmanship: Rails shall be straightened cold in a press or roller machine to remove twist, waves and kinks until they meet the surface and line requirements specified below. Cold straightening shall be effected by means of gradual pressure without impact. Rail straightened by roller machine shall be straightened only once in each straightening plane.

Surface upsweep: Maximum 0.10 inch per foot with maximum of 0.08 inch or rail in excess of 80 feet. Maximum 0.10 inch in 5 feet from the rail ends provided it shall not occur at a point closer than 30 inches from the rail ends.

Surface downsweep: Rail with surface downsweep and droop shall be accepted.

Uniform sidesweep: Maximum 0.10 inch per foot with a maximum of 0.80 inch for rail in excess of 80 feet. Maximum 0.25 inch in 5 feet at the rail ends

provided it shall not occur at a point closer than 30 inches from the rail ends.

Vertical deviation: Sharp deviations from uniform vertical line of the rail in either direction will not be acceptable deviations in the vertical line of the rail and shall not exceed:

—Maximum ordinate of 0.020 inch as measured with a 3 foot straight edge.

—Maximum vertical peak measurement 0.040 inch as measured with a 3 foot straight edge.

Horizontal deviation: Sharp deviations from uniform horizontal line of the rail in either direction will not be acceptable. Deviations of the horizontal line in either direction of the rail shall not exceed an ordinate of 0.020 inch in the horizontal plane as measured with a 3 foot straight edge.

Periodic waviness: The entire shall not present a periodic waviness with an amplitude in the vertical greater than 0.020 inch and not greater than 0.020 inch in the horizontal plane as measure with a 3 foot straight edge.

Twist: Rail that exhibits twist that exceeds 0.001 inch in one foot will be rejected (i.e. 0.039 inch over 39 feet, 0.080 inch over 80 feet).

Section 4(b)(4)(B) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) The requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product; therefore, the Secretary will determine whether this product is in short supply not later than June 19, 1991.

Comments

Interested parties wishing to comment upon this review must send written comments not later than June 10, 1991, to the Secretary of Commerce, Attention: Import Administration, Room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after June 10, 1991. All

documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Derek S. Lewis or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377-3208 or 377-0159.

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 91-12999 Filed 5-31-91; 8:45 am]
BILLING CODE 3510-DS-M

Short-Supply Review: Certain Stainless Steel Wire Rod

AGENCY: Import Administration/
International Trade Administration,
Commerce.

ACTION: Notice of short-supply review and request for comments on certain Type 409 CB welding quality stainless steel wire rod.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 250 metric tons of certain Type 409 CB stainless steel wire rod for June-December 1991 under the U.S.-EC and U.S.-Japan steel arrangements.

SHORT-SUPPLY REVIEW NUMBER: 52.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation

Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.104(b) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply request is under review with respect to certain Type 409 CB welding quality stainless steel wire rod. On May 22, 1991, the Secretary received an adequate petition from ECD, Inc. ("ECD"), for 250 metric tons of this product for June-December 1991, under article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Products and paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America Concerning Trade in Certain Steel Products. ECD is requesting short supply because it alleges that the only potential domestic producer has been unwilling to supply this product to ECD and because its potential foreign suppliers have insufficient quota available.

The requested stainless wire rod meets the following specifications:

1. Scope

This specification covers general requirements for AISI 409 CB stainless steel wire rod to be drawn to wire suitable for cold heading.

2. Diameters and Quantity Sought per Size

0.7870 inch—125 metric tons
0.8125 inch—125 metric tons

3. Method of Manufacture

The stainless steel shall be made by electric furnace, or equivalent steel making process.

4. Chemical Composition

a. Heat cast of ladle:	
Carbon	0.05 max.
Manganese	1.00 max.
Silicon	1.00 max.
Phosphorous	0.04 max.
Sulphur	0.025 max.
Chromium	10.50-11.75 max.
Nickel	0.50 max.
Molybdenum	0.50 max.
Nitrogen	0.03 max.
Copper	0.50 max.
Columbium	0.50 min.-0.80 max.
b. Permissible Variation in Product Analysis:	
Carbon	0.01 percent.
Manganese	0.03 percent.
Silicon	0.05 percent.
Phosphorous	0.01 percent.
Sulphur	0.01 percent.
Chromium	0.20 percent.
Nickel	0.03 percent.

Molybdenum	0.01 percent.
Copper	0.01 percent.

5. Physical Properties

- Tensile of any coil in the shipment not to exceed 75,000 PSI max. (aim 70,000 PSI max.).
 - Minimum reduction of area measured during tensile test 60 percent, and elongation minimum 20 percent on 10 foot gauge length.
 - The steel be fine grained from 5-8, according to ASTM classification.
 - Wire rods having defects like pipes, slivers, bursts, surface pits, nicks, tangles and sharp kinks and excessive porosity will be rejected.
 - No cracks will be tolerated.
- Maximum seam depth allowed 0.003 inch.

6. Tolerances

The dimension and out of roundness of the stainless steel wire rods shall not vary from that specified below:
Permissible variation in diameter = $\pm .008$ inch
Permissible out of round = $\pm .010$ inch

7. Packing

Coils should be bundled weighing 4,000-5,000 pounds. Minimum weight of coil = 500 pounds. Maximum weight of coil = 4,000 pounds. Each coil and bundle shall be strapped, banded or wired in four (4) places approximately 90 degrees apart.

8. Microstructure.

1. Micro structure should reveal fine equiaxed ferrite grains. No presence of continuous grain boundary or carbide precipitation will be accepted. Carbides should be uniformly dispersed in ferrite matrix.

2. The material should be fully annealed. No presence of Martensite is acceptable.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) the raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to he

requested product, and therefore, the Secretary will determine whether this product is in short supply not later than June 21, 1991.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than June 10, 1991, to the Secretary of Commerce, Attention: Import Administration, Room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Marissa Rauch or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230, (202) 377-1382 or (202) 377-0159.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-12998 Filed 5-31-91; 8:45 am]

BILLING CODE 3510-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Determination; Excess Defense Articles (Individual Equipment Items, First Aid Kits and Vehicles)

Pursuant to the reporting requirements of section 517 of the Foreign Assistance Act of 1961 (FAA) this document provides notification that during Fiscal

Year 1991 the United States Government will transfer to the Government of Paraguay a variety of individual equipment items, first aid kits and vehicles.

These items are required to enable the military forces in Paraguay to participate in a comprehensive national anti-narcotics enforcement program, by conducting activities within Paraguay to prevent the production, processing, trafficking, transportation, and consumption of illicit drugs or other controlled substances. They will be provided at no cost with the exception of transportation charges.

In accordance with section 527(c) FAA the recipient country will agree in the associated Letter of Offer and Acceptance that it will ensure that these items will be used primarily in support of anti-narcotics activities.

The Director, Defense Security Assistance Agency, Lt Gen Teddy G. Allen, certifies that the items are needed by Paraguay and will determine that there will be no adverse impact on U.S. military readiness as a result of these transfers.

Dated: May 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13011 Dated 5-31-91; 8:45 am]

BILLING CODE 3818-01-M

Defense Environmental Response Task Force; Meeting

AGENCY: Office of the Assistant Secretary of Defense (Production and Logistics).

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force. The purpose of the meeting is to consider issues related to the improvement of interagency coordination of environmental response actions at military installations scheduled for closure pursuant to Public Law 100-526. The Task Force will also consider consolidation and streamlining of current practices with respect to such actions and consider recommendations regarding changes to existing laws, regulations, and administration policies. Testimony will be taken from invited witnesses. The business meeting and hearing will be open to the public.

DATES: June 19, 1991.

ADDRESSES: 1616 P Street, NW., Washington, DC, 20036, Thomas B. Kimball Conference Center.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doney, Task Force Executive Director, Office of the Deputy Assistant Secretary of Defense (Environment), the Pentagon, Washington, DC 20301-8000; telephone (703) 695-8361.

Dated: May 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Officer, Department of Defense.

[FR Doc. 91-13012 Filed 5-31-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 4, 1991; Tuesday, June 11, 1991; Tuesday, June 18, 1991; and Tuesday, June 25, 1991 at 10 a.m. in room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered from officials of private establishments with a

guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20301.

Dated: May 28, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13010 Filed 5-31-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before July 3, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or

Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: May 28, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Application for Assistance—School Assistance in Federally Affected Areas.

Frequency: Annually.

Affected Public: Individuals or households; State or local governments.

Reporting Burden: Responses: 2,033,350. *Burden Hours:* 1,054,359.

Recordkeeping Burden:

Recordkeepers: 0. *Burden Hours:* 0.

Abstract: This form will be used by State Educational agencies to apply for funding under the Impact Aid Program. The Department uses the information to make grant awards.

[FR Doc. 91-12962 Filed 5-31-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Tuesday, June 11, 1991, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of

U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the aforesaid location on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the Agenda.
2. Summary Record of 71st SEQ Meeting.
3. Conclusions of the Ministerial Meeting of the IEA Governing Board of June 3, 1991.
4. The Gulf Crisis of 1990/91, the IEA Response and Lessons for IEA Emergency Preparedness.
5. IAB Activities.
6. Future Work of the SEQ.
7. Emergency Response Reviews of IEA Countries.
 - Emergency Response Reviews of Canada, Italy and Japan
 - Review of Spain
 - Schedule for the Review of Member Countries' Emergency Response Programs
8. Emergency Reserve and Net Import Situation of IEA Countries on 1st January 1991.
9. Emergency Data System and Related Questions.
 - Quarterly Oil Forecast 2Q91/1Q92
 - Monthly Oil Statistics (MOS) to February 1991
 - MOS to March 1991
 - Base Period Final Consumption 1Q90/4Q90
 - Questionnaire A/Questionnaire B Data Quality
 - Proposals for the Simplification and Improvement of Questionnaire C
10. Any Other Business.
 - Standing Group on the Oil Market Meeting of 17th May; Current Oil Market Situation
 - Change of Central Computer System

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the meeting is open only to representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of members of the SEQ, representatives of the Commission of the European Communities, and invitees of the IAB, or the IEA.

Issued in Washington, DC, May 29, 1991.

Stephen A. Wakefield,
General Counsel.

[FR Doc. 91-13035 Filed 5-31-91; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration**Agency Information Collections Under Review by the Office of Management and Budget**

AGENCY: Energy Information Administration, Energy.

ACTION: Notice of request submitted for expedited review by the Office of Management and Budget of Proposed Forms EIA-822A-D.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per

respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Under the provisions of 5 CFR 1320.15(b)(1), the Agency has requested that the Office of Management and Budget take action by June 28, 1991.

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 586-2171.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA-822A-D.
3. N.A.
4. Oxygenate Operations Identification Surveys.
5. New—The Energy Information Administration requests expedited OMB processing by June 28, 1991 to conduct a one-time survey to collect data on oxygenates which can be used to produce certified motor gasoline that meets the requirements of the Clean Air Act of 1990. As a result of the Clean Air Act of 1990, substantial amounts of oxygenated motor gasoline will be

produced that will not be measured by EIA's current data collection program. The failure to include these volumes in the EIA published statistics will render difficult any substantive analyses or conclusions on the state of the domestic energy situation. These proposed collections are designed to determine the universe of oxygenate producers, refinery and terminal oxygenate blending and storage operators, and oxygenate importers so that EIA can incorporate these companies into the existing data program and capture the missing motor gasoline.

6. One-Time.
7. Mandatory.
8. Businesses or other for-profit.
9. 1,500 respondents.
10. 1 response.
11. 1.50 hours per response.
12. 2,250 hours.

13. EIA-822A-D will be used to determine the universe of oxygenate producers, blenders, storers, and importers and to collect data on oxygenates which can be used to produce finished motor gasoline that meets the Clean Air Act of 1990 requirements.

Also, in accordance with the provisions of 5 CFR 1320.15(b), a copy of the proposed forms follows in its entirety.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Public Law 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, May 28, 1991.

Yvonne M. Bishop,
Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

ONE -TIME FRAME IDENTIFIER SURVEY

EIA-822A
(6/91)

Energy Information Administration
U.S. DEPARTMENT OF ENERGY
Petroleum Supply Reporting System

Form Approved
OMB No.
Expiration Date:

OXYGENATE PRODUCERS SURVEY
FORM EIA-822A

This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form, see Section VI of the instructions. Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time of reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Energy Information Administration, Office of Statistical Standards, EI-73, Mail Station: 2F-081 Forrestal, 1000 Independence Ave. SW, Washington, DC 20585; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Survey forms can be submitted by either mail or facsimile following the steps in Section IV of the survey instructions.

RESPONDENT IDENTIFICATION

[_____] _____
[_____] _____
[_____] _____
[_____] _____
[_____] _____

[LABEL]

Please make any necessary name and address corrections in the space provided.

[_____]

1. Does this facility produce oxygenates? Yes _____ No _____

Product	Code	Production Capacity as of January 1 (Thousand Gallons)				Thousand Gallons		
		1991 Calendar Day		1991 Stream Day	1992 Projected Calendar Day	1990 Actual Production	Working Storage Capacity*	Stocks*
		Operating	Idle					
Ethanol (Dehydrated)	141							
Ethyl tertiary butyl ether (ETBE)	142							
Methanol	143							
Methyl tertiary butyl ether (MTBE)	144							
Tertiary amyl methyl ether (TAME)	145							
Tertiary butyl alcohol (TBA)	146							
Other Products	444							
TOTAL	999							

* Report all storage capacity and stocks as of December 31, 1990. Include in your figures the storage capacity and stocks at petroleum refineries operated by your company that are either adjacent to or part of the oxygenate producing facility.

(CONTINUED)

2. If 1991 production capacity is idle, please explain (e.g., scheduled maintenance).

3. Was your 1990 production of oxygenates constrained to less than full utilization? Yes ☐ No ☐ If yes, please list type of constraint (e.g., feedstock availability, maintenance, etc.).

4. What was the end use of the oxygenates produced at this facility during 1990? (The figures in the Total Column should match total 1990 production for each product.)

Product	Code	Thousand Gallons				
		Gasoline Blending	Shipped to Ether Plants	Non-Fuel Uses	Other Uses*	Total
Ethanol (Dehydrated)	141					
Ethyl tertiary butyl ether (ETBE)	142					
Methanol	143					
Methyl tertiary butyl ether (MTBE)	144					
Tertiary amyl methyl ether (TAME)	145					
Tertiary butyl alcohol (TBA)	146					
Other Products	444					

* Direct consumption (e.g., methanol, M85, etc.)

(CONTINUED)

5. Provide the name, address and phone number of facilities including facilities owned or operated by your company (i.e., refineries and motor gasoline blending plants) that received one thousand gallons or more of oxygenates from your facility during 1990. This information will be used for frame identification purposes only.

Receiving Facility Name	Facility Address	Telephone No.
(1)		()
(2)		()
(3)		()
(4)		()
(5)		()
(6)		()
(7)		()
(8)		()
(9)		()
(10)		()
(11)		()

Name of person to contact regarding this report (please print) _____

Telephone Number (AC) () _____

Ext. _____

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name (please print) _____ Title _____

Signature _____ Date _____

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

ONE-TIME FRAME IDENTIFIER SURVEY

ELA-822B
(6/91)

Energy Information Administration
U.S. DEPARTMENT OF ENERGY
Petroleum Supply Reporting System

Form Approved
OMB No.
Expiration Date:

REFINERY OXYGENATE BLENDING AND STORAGE SURVEY
FORM EIA-822B

This report is mandatory under Public Law 93-473. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form, see Section VI of the instructions. Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Energy Information Administration, Office of Statistical Standards, EI-73, Mail Station: 2F-081 Forrestal, 1000 Independence Ave. SW, Washington, DC 20585; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Survey forms can be submitted by either mail or facsimile following the steps in Section IV of the survey instructions.

RESPONDENT IDENTIFICATION

[LABEL]

Please make any necessary name and address corrections in the space provided.

1. Does this facility produce finished motor gasoline that contains either alcohol or ethers? Yes ☐ No ☐
-
2. What volume of oxygenates was blended with motor gasoline (gasoline blending) at this facility or delivered for direct consumption (other uses) as a motor fuel (e.g., methanol) in 1990?

Product	Code	Thousand Gallons	
		Gasoline Blending	Other Uses*
Ethanol (Dehydrated)	141		
Ethyl tertiary butyl ether (ETBE)	142		
Methanol	143		
Methyl tertiary butyl ether (MTBE)	144		
Tertiary amyl methyl ether (TAME)	145		
Tertiary butyl alcohol (TBA)	146		
Other Products	444		

* Direct consumption (e.g., methanol, M85, etc.)

(CONTINUED)

3. Report the stocks and storage capacity of oxygenates located at this facility as of December 31, 1990. (Do not complete this section if this refinery produces oxygenates or is located adjacent to a facility operated by this company that produces oxygenates. This data should be reported on Form EIA-822A.)

Product	Code	Thousand Gallons	
		Stocks	Working Storage Capacity
Ethanol (Dehydrated)	141		
Ethyl tertiary butyl ether (ETBE)	142		
Methanol	143		
Methyl tertiary butyl ether (MTBE)	144		
Tertiary amyl methyl ether (TAME)	145		
Tertiary butyl alcohol (TBA)	146		
Other Products	444		
TOTAL	999		

Name of person to contact regarding this report (please print) _____

Telephone Number (AC) () _____

Ext. _____

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name (please print) _____ Title _____

Signature _____ Date _____

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

4. Excluding refineries operated by your company, report the volume of oxygenates delivered for direct use as motor fuel.

[illegible]

5. Excluding refineries, MTBE and petrochemical plants operated by your company, report stocks of oxygenates as of December 31, 1990.

[illegible]

(CONTINUED)

ELA-822D
(6/91)

Energy Information Administration
U.S. DEPARTMENT OF ENERGY
Petroleum Supply Reporting System

Form Approved
OMB No.
Expiration Date:

OXYGENATE IMPORTERS SURVEY
FORM EIA-822D

This report is mandatory under Public Law 93-275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form, see Section VI of the instructions. Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time of reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Energy Information Administration, Office of Statistical Standards, El-73, Mail Station: 2F-081 Fort Belknap, 1000 Independence Ave. SW, Washington, DC 20585; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Survey forms can be submitted by either mail or facsimile following the steps in Section IV of the survey instructions.

RESPONDENT IDENTIFICATION

[LABEL]

Please make any necessary name and address corrections in the space provided.

1. Did you import oxygenates in 1990? Yes ☐ No ☐ If yes, enter the volume of imports below.

[illegible]

2. What was the end use of the oxygenates imported during 1990? (The figures in the Total Column should match 1990 imports.)

Product	Code	Thousand Gallons				Total
		Gasoline Blending	Shipped to Ether Plants	Non-Fuel Uses	Other Uses*	
Ethanol (Dehydrated)	141					
Ethyl tertiary butyl ether (ETBE)	142					
Methanol	143					
Methyl tertiary butyl ether (MTBE)	144					
Tertiary amyl methyl ether (TAME)	145					
Tertiary butyl alcohol (TBA)	146					
Other Products	444					

* Direct consumption (e.g., methanol, M85, etc.)

(CONTINUED)

3. Report projected imports for 1991.

Product	Code	1991 Projected Imports (Thousand Gallons)
Ethanol (Dehydrated)	141	
Ethyl tertiary butyl ether (ETBE)	142	
Methanol	143	
Methyl tertiary butyl ether (MTBE)	144	
Tertiary amyl methyl ether (TAME)	145	
Tertiary butyl alcohol (TBA)	146	
Other	444	

4. Provide the name, address and phone number of facilities including facilities owned or operated by your company (i.e., refineries and motor gasoline blending plants) that received one thousand gallons or more of oxygenates from your company during 1990. This information will be used for frame identification purposes only.

Receiving Company Name	Company Address	Telephone No.
(1)		()
(2)		()
(3)		()
(4)		()
(5)		()
(6)		()
(7)		()
(8)		()
(9)		()

Name of person to contact regarding this report (please print)

Telephone Number (AC) () Ext.

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name (please print) _____ Title _____

Signature _____ Date _____

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

EIA-822A-D
(6/91)**ONE - TIME FRAME IDENTIFIER SURVEY**Form Approved
O.M.B. No.
Expiration Date:Energy Information Administration
U.S. DEPARTMENT OF ENERGY
Petroleum Supply Reporting System**OXYGENATE OPERATIONS IDENTIFICATION SURVEY
FORMS EIA-822A-D
INSTRUCTIONS**For help in completing this form, please contact the Project
Manager at 1-800-255-3159.**I. PURPOSE**

The Energy Information Administration (EIA) Forms EIA-822A-D, "Oxygenate Operations Identification Survey" is designed to obtain information on oxygenate producers, blenders, storers, and importers. The information will aid in determining whether such operators are eligible respondents to EIA monthly data surveys.

II. WHO MUST SUBMIT

Every firm that receives Forms EIA-822A-D must fill out the pertinent forms and submit them to the Department of Energy (DOE).

- Form EIA-822A, "Oxygenate Producers Survey," should be completed by the operator for each facility that manufactures or distills oxygenates (including refineries that produce oxygenates as part of their operations) located in the 50 States, District of Columbia, Puerto Rico, the Virgin Islands, Guam and other U.S. possessions.
- Form EIA-822B, "Refinery Oxygenate Blending and Storage Survey," should be completed by the operators of all refineries located in the 50 States, District of Columbia, Puerto Rico, the Virgin Islands, Guam and other U.S. possessions.
- Form EIA-822C, "Terminal Oxygenate Blending and Storage Survey," should be completed by operators of bulk terminals, bulk stations, and blending plants that store, blend and/or market petroleum products or oxygenates located in the 50 States, District of Columbia, Puerto Rico, the Virgin Islands, Guam and other U.S. possessions.
- Form EIA-822D, "Oxygenate Importers Survey," should be completed by each importer of record who imports oxygenates (1) into the 50 States and the District of Columbia, (2) into Puerto Rico, the Virgin Islands, Guam and other U.S. possessions, and (3) from Puerto Rico, the Virgin Islands, Guam and other U.S. possessions into the 50 States and the District of Columbia. Imports into Foreign Trade Zones located in the 50 States and the District of Columbia are

considered imports into the 50 States and the District of Columbia.

III. WHEN TO SUBMIT

Forms should be submitted no later than _____.

IV. WHERE TO SUBMIT

Survey forms can be submitted by either mail or facsimile.

Mail:

Energy Information Administration
Mail Station BG-094 Forrestal
U.S. Department of Energy
Washington, DC 20585

Facsimile:

Equipment:	Murata
Compatibility:	1, 2, and 3
Receiving Speed(s):	30 secs. to 6 mins.
Telephone Nos:	(202) 586-6323 (202) 586-6410
Verification Nos:	(202) 586-6214 (202) 586-3219

To ensure receipt of complete legible data, companies should call the verification numbers upon completion of transmission and obtain the name of the person who verified receipt of their data.

V. FORM COMPLETION PROCEDURES

Definitions of petroleum products and other terms are provided for your use in Section VIII. Please refer to these definitions before completing the survey form.

Report all quantities to the nearest whole number in thousand gallons, except where noted. Quantities ending in 499 or less are rounded down, and quantities ending in 500 or more are rounded

up (e.g., 106,499 gallons are reported as 106 and 106,500 gallons are reported as 107).

Report data only for those lines which are applicable to your operation. If there are no data for a specific line, leave the entire line blank. If more space is required for your answer to a specific item, continue on an attached sheet.

For purposes of this survey, MTBE plants and petrochemical plants are considered to be separate from the refinery and should file Form EIA-822A, "Oxygenate Producers Survey" only.

For purposes of this survey, reported quantities (stocks, production, imports, quantities blended, and production capacities) of oxygenates should include only oxygenates. Do not include non-oxygenate components that may be mixed with the oxygenates. For example, if material other than methyl tertiary butyl ether (MTBE) is generated or produced from your MTBE production unit, report only the MTBE portion of the mixture.

Stocks

Report all stocks in the custody of the facility regardless of ownership. Reported stock quantities should represent actual measured inventories where an actual physical measurement is possible.

Refineries that produce oxygenates should report their stocks and storage capacity on Form EIA-822A, "Oxygenate Producers Survey" only and not complete Question 3 of Form EIA-822B, "Refinery Oxygenate Blending and Storage Survey."

Include stocks in underground storage associated with the facility.

Exclude leased tankage at other facilities.

Report all domestic and foreign stocks held at the facility and in transit thereto. Include foreign stocks only after entry through Customs. Exclude stocks of foreign origin held in bond.

For purposes of this report, "after entry through Customs" is said to occur on:

the "entry date" specified on the U.S. Customs Form CF 7501, "Entry Summary;" or

the "import date" specified on the U.S. Customs Form 214, "Application for Foreign Trade Zone Admission and/or Status Designation;" or

the "date of withdrawal" specified on the U.S. Customs Form CF 7505, "Warehouse Withdrawal for Consumption;" or

the "date of withdrawal" specified on the U.S. Customs Form CF 7506, "Warehouse Withdrawal Conditionally Free of Duty, and Permit;" or

the "date of exportation" specified on the U.S. Department of Commerce Form 7525-V, "Shipper's Export Declaration," for shipments from Puerto Rico to the 50 States and the District of Columbia.

Imports

For purposes of this report, an "import" is said to occur on:

the "entry date" specified on the U.S. Customs Form CF 7501, "Entry Summary;" or

the "import date" specified on the U.S. Customs Form 214, "Application for Foreign Trade Zone Admission and/or Status Designation;" or

the "date of withdrawal" specified on the U.S. Customs Form CF 7505, "Warehouse Withdrawal for Consumption;" or

the "date of withdrawal" specified on the U.S. Customs Form CF 7506, "Warehouse Withdrawal Conditionally Free of Duty, and Permit;" or

the "date of exportation" specified on the U.S. Department of Commerce Form 7525-V, "Shipper's Export Declaration," for shipments from Puerto Rico to the 50 States and the District of Columbia.

Include imports into the 50 States, District of Columbia, and imports from Puerto Rico, the Virgin Islands and other U.S. possessions. In addition, imports into Puerto Rico, the Virgin Islands and other U.S. possessions should be reported. For example, imports into Puerto Rico and the Virgin Islands should be reported using the producing country as the "Country of Origin" and a port in Puerto Rico or the Virgin Islands as the "Port of Entry." Products shipped from Puerto Rico or the Virgin Islands to the 50 States or the District of Columbia should also be reported, with Puerto Rico or the Virgin Islands as the "Country of Origin" and a port in the 50 States or the District of Columbia as the "Port of Entry."

For Each Import Line complete the following columns:

Type of Commodity: Enter the appropriate commodity as listed below for each import.

Ethanol
Ethyl tertiary butyl ether (ETBE)
Methanol
Methyl tertiary butyl ether (MTBE)
Tertiary amyl methyl ether (TAME)
Tertiary butyl alcohol (TBA)
Other Products

Port of Entry: Enter the port at which the commodity was unloaded.

Country of Origin: Enter the country from which the commodity was produced or originated.

Quantity: Enter the quantity of the commodity imported in thousand gallons. Quantities are to be corrected to 60°F less basic sediment & water.

Contact Information and Certification Blocks

Enter the name and telephone number of the person to be contacted if clarification of reported data is necessary.

Enter the name and title of the individual your company has designated to certify the accuracy of the data.

Sign the "certification" block and enter the current date.

VI. PROVISIONS REGARDING CONFIDENTIALITY OF INFORMATION

The information contained in this form will be kept confidential and not disclosed to the public to the extent that it satisfies the criteria for exemption under the Freedom of Information Act (FOIA), 5 U.S.C. §552, the DOE regulations, 10 C.F.R. §1004.11, implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. §1905.

Upon receipt of a request for this information under the FOIA, the DOE shall make a final determination whether the information is exempt from disclosure in accordance with the procedures and criteria provided in the regulations. To assist us in this determination, respondents should demonstrate to the DOE that, for example, their information contains trade secrets or commercial or financial information whose release would be likely to cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis) the reasons why the information would be likely to cause the respondent substantial competitive harm if released to the public would aid in this determination.

Except as otherwise provided by law, the information may be made available in response to an order of a Court of competent jurisdiction, or, upon request, to other components of DOE, to any Committee of Congress, the General Accounting Office, or other Congressional agencies authorized by law to receive such information.

Detailed provisions of the restrictions on the disclosure of this information can be found in the Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA (45 Federal Register 59812 (1980)).

VII. SANCTIONS

The timely submission of Forms EIA-822A-D by a firm required to report is mandatory under Section 13(b) of the Federal Energy Administration (FEA) Act of 1974, Public Law 93-275. Failure to respond may result in criminal fines, civil penalties, and other sanctions as provided by law.

VIII. DEFINITIONS OF PETROLEUM PRODUCTS AND OTHER TERMS

Alcohol. The family name of a group of organic chemical compounds composed of carbon, hydrogen, and oxygen. The series of molecules vary in chain length and are composed of a hydrocarbon plus a hydroxyl group; $\text{CH}(\text{CH}_3)_n\text{-OH}$ (e.g., methanol, ethanol, and tertiary-butyl alcohol (TBA)).

Blending Plant. A facility which has no refining capability but is capable of producing finished motor gasoline through mechanical blending.

Bulk Station. A facility used primarily for the storage and/or marketing of petroleum products which has a total bulk storage capacity of less than 50,000 barrels and receives its petroleum products by tank car or truck.

Bulk Terminal. A facility used primarily for the storage and/or marketing of petroleum products which has a total bulk storage capacity of 50,000 barrels or more and/or receives petroleum products by tanker, barge, or pipeline.

Ending Stocks. Stocks of oxygenates held in storage as of 12 midnight on December 31, 1990.

ETBE (Ethyl tertiary butyl ether) $(\text{CH}_3)_3\text{COCH}_2\text{CH}_3$. An oxygenate blend stock with a high-octane number 110 (R+M)/2 formed by the catalytic etherification of isobutylene with ethanol.

Ethanol $(\text{C}_2\text{H}_5\text{OH})$. A colorless, volatile, flammable liquid.

Ether. A generic term applied to a group of organic chemical compounds composed of carbon, hydrogen, and oxygen, characterized by an oxygen atom attached to two carbon atoms (e.g., methyl tertiary butyl ether).

Idle Capacity. Capacity that is not in operation and not under active repair, but capable of being placed in operation within 30 days; and capacity not in operation but under active repair that can be completed within 90 days.

Methanol (CH_3OH) . A light, volatile, flammable, poisonous, liquid alcohol.

Motor Gasoline (Finished). A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, that has been blended to form a fuel suitable for use in

spark-ignition engines. Motor gasoline, as given in ASTM Specification D439 or Federal Specification VV-G-1690B, includes a range in distillation temperatures from 122 to 158° F at the 10-percent recovery point and from 365 to 374° F at the 90-percent recovery point. Motor gasoline includes finished leaded gasoline, finished unleaded gasoline, and gasohol. Blendstock is excluded until blending has been completed. Alcohol that is to be used in the blending of gasohol is also excluded.

Finished Leaded Gasoline. Contains more than 0.05 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon. Premium and regular grades are included, depending on the octane rating. Includes leaded gasohol. Blendstock is excluded until blending has been completed. Alcohol that is to be used in the blending of gasohol is also excluded.

Finished Unleaded Gasoline. Contains not more than 0.05 gram of lead per gallon and not more than 0.005 gram of phosphorus per gallon. Premium and regular grades are included, depending on the octane rating. Includes unleaded gasohol. Blendstock is excluded until blending has been completed. Alcohol that is to be used in the blending of gasohol is also excluded.

Gasohol. A blend of finished motor gasoline (leaded or unleaded) and alcohol (generally ethanol but sometimes methanol), limited to 10 percent by volume of alcohol.

Motor Gasoline Blending Components. Naphthas which will be used for blending or compounding into finished motor gasoline (e.g. straight-run gasoline, alkylate, reformate, benzene, toluene, and xylene). Excludes oxygenates (alcohols, ethers), butane, and pentanes plus.

MTBE (Methyl tertiary butyl ether) $(CH_3)_3COCH_3$. An oxygenate blend stock with a high-octane number 110 (R+M)/2 formed by the catalytic etherification of isobutylene with methanol.

Other Products. Other alcohols and ethers not listed on the survey forms (e.g., isopropyl ether (IPE)).

Operating Capacity. Capacity that is in operation as of January 1.

Oxygenates. Alcohols and ethers (e.g., ethanol, ethyl tertiary butyl ether, methanol, methyl tertiary butyl ether, tertiary amyl methyl ether, and tertiary butyl alcohol).

Production Capacity. The amount of product that produced from processing facilities. Production capacity, measured in calendar day and stream day.

Calendar Day. The maximum amount of product that can be produced during a 24-hour period after making allowances for the following limitations:

- the capability of downstream facilities to absorb the output of the processing facilities. No reduction is made when a planned distribution of intermediate streams through other than downstream facilities is part of a company's normal operation;
- the types and grades of inputs to be processed;
- the types and grades of products expected to be manufactured;
- the environmental constraints associated with operations;
- the reduction of capacity for scheduled downtime such as routine inspection, mechanical problems, maintenance, repairs, and turnaround; and
- the reduction of capacity for unscheduled downtime such as mechanical problems, repairs, and slowdowns.

Stream Day. The amount a unit can process running at full capacity under optimal feedstock and product slate conditions.

Refinery. An installation that manufactures finished petroleum products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and alcohol.

TAME (Tertiary amyl methyl ether) $(CH_3)_3C(C_2H_5)COCH_3$. An oxygenate blend stock with a high-octane number 104.5 (R+M)/2 formed by the catalytic etherification of isoamylene with methanol.

TBA (Tertiary butyl alcohol) $(CH_3)_3COH$. An alcohol primarily used as a chemical feedstock, a solvent or feedstock for isobutylene production for MTBE; produced as a co-product of propylene oxide production or by direct hydration of isobutylene.

Working Storage Capacity. The difference in volume between the maximum safe fill capacity and the quantity below which pump suction is ineffective (tank bottoms).

Federal Energy Regulatory Commission

[Docket Nos. ER91-448-000, et al.]

LTV Steel Mining Co., et al.; A Limited Partnership, Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 23, 1991.

Take notice that the following filings have been made with the Commission:

1. LTV Steel Mining Co. A Limited Partnership

[Docket No. ER91-448-000]

Take notice that on May 20, 1991, LTV Steel Mining Company, a limited filing pursuant to 18 CFR 35.12(b) initial rates for the sale of excess energy and power to Minnesota Power & Light Company.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Baltimore Gas and Electric Co.

[Docket No. ER91-216-000]

Take notice that on May 15, 1991, Baltimore Gas and Electric Company (BG&E) tendered for filing, a supplemental letter agreement to a letter agreement between BG&E and Public Service Electric Gas Company (PS) reflecting BG&E's sale to PS of one hundred percent of BG&E's entitlement for the use of the Pennsylvania-New Jersey-Maryland Interconnection's (PJM) transmission system which is used to import energy from systems to the west of PJM. The supplemental letter agreement revises the letter agreement providing that PS will receive a refund of any charges made pursuant to the letter agreement in excess of 5.5 miles per kwh, if over the term of the letter agreement, purchases by PS are below a forty percent load factor. PS has concurred in this rate schedule by its execution of the letter agreement. BG&E requests that the Commission waive its customary notice period and allow the rate schedule to become effective December 31, 1990.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Co. of New Mexico

[Docket No. ER91-446-000]

Take notice that on May 20, 1991, Public Service Company of New Mexico (PNM) submitted for filing an Economy Energy Agreement between PNM and the City of Banning, California. Under the Agreement PNM and Banning will make economy energy available to one another at rates reflecting current market conditions.

Copies of the filing have been served upon Banning and the New Mexico Public Service Commission.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Arkansas Power & Light Co.

[Docket No. ER91-331-000]

Take notice that on May 20, 1991, Arkansas Power & Light Company tendered for filing its response to staff's request for additional information in the above-referenced docket.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. Central Vermont Public Service Corp.

[Docket No. ER91-450-000]

Take notice that Central Vermont Public Service Corporation ("CVPS") on May 20, 1991, tendered for filing as an initial rate schedule a contract under which CVPS has agreed to sell a portion of Central Vermont's entitlement in the capacity and net electrical output of the Millstone 3 Unit to Hydro-Electric Company.

CVPS requests the Commission to waive its notice of filing requirements to permit the rate schedule to become effective as of May 1, 1991.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Canal Electric Co.

[Docket No. ER91-343-000]

Take notice that on May 20, 1991, Canal Electric Company ("Canal") filed additional information in support of its March 28, 1991 filing of a Power Sale Agreement between itself and Central Vermont Public Service Corporation ("CVPS") with respect to the sale of an entitlement in Canal Unit No. 2 to CVPS over the period March 1, 1991 through October 31, 1995. The additional information consists of an existing contract for the sale of power from Canal Unit No. 2 to other purchasers (Canal's Rate Schedule FERC No. 17), which is referenced in the Power Sale Agreement.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Co. of New Mexico

[Docket No. ER91-445-000]

Take notice that on May 20, 1991, Public Service Company of New Mexico (PNM) submitted for filing an Economy Energy Agreement between PNM and the City of Colton, California (Colton). Under the Agreement PNM and Colton will make economy energy available to

one another at rates reflecting current market conditions.

Copies of the filing have been served upon Colton and the New Mexico Public Service Commission.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Co. of New Mexico

[Docket No. ER91-447-000]

Take notice that on May 20, 1991, Public Service Company of New Mexico (PNM) submitted for filing an Economy Energy Agreement between PNM and Azusa will make economy energy available to one another at rates reflecting current market conditions.

Copies of the filing have been served upon Azusa and the New Mexico Public Service Commission.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Co.

[Docket No. ER91-449-000]

Take notice that on May 20, 1991, Idaho Power Company (IPC) tendered for filing the Power Sales Agreement between Idaho Power and the Cities of Azusa, Banning and Colton, California. The Agreement was executed December 28, 1990 and expires September 30, 2009. The Agreement provides for the sale of 7 MW of power with associated energy to be divided among the three Cities.

IPC has requested waiver of the notice provisions of § 35.3 of the Commission's regulations in order to permit the Agreement to become effective on July 1, 1991. Copies of this filing were served upon the IPUC, the California PUC and the purchasers under the Agreement.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

10-11. Wheelabrator North Broward Inc.

[Docket No. ER91-442-000]

Take notice that on May 17, 1991, Wheelabrator North Broward Inc. submitted for filing, pursuant to rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, initial rate schedules for sales to Florida Power & Light Company.

Comment date: June 7, 1991, in accordance with Standard Paragraph end of this notice.

12. Gulf States Utilities Co.

[Docket No. ER91-441-000]

Take notice that Gulf States Utilities Company ("Gulf States") on May 17, 1991, tendered for filing: (1) Amendment No. 4 to Power Supply Agreement

("PSA") between Gulf States and Sam Rayburn Dam Electric Cooperative, Inc. ("SRDE"), Sam Rayburn G&T, Inc. ("SRG&T") and Sam Rayburn Municipal Power Agency ("SRMA"), Rate Schedule FERC No. 130; (2) Amendment No. 5 to PSA; (3) Amendment No. 6 to PSA; (4) Rate Schedule WPS applicable to SRDE and SRMA; (5) Amendment No. 7 to PSA; (6) Amendment No. 4 to Power Interconnection Agreement ("PIA") between Gulf States and SRDE, SRG&T, and SRMA, Rate Schedule FERC No. 131; (7) Amendment No. 5 to PIA, including Riders A to Service Schedules ES and RE applicable to SRDE and SRMA; (8) Rate of Supplemental Service under Service Schedule ES (Sam Rayburn Municipal Power Agency); (9) Rate for Supplemental Service under Service under Service Schedule RE (Sam Rayburn Municipal Power Agency); (10) Rate for Supplemental Service under Service Schedule SRGES (Sam Rayburn G&T Electric Cooperative, Inc.); (11) Rate for Supplemental Service under Service Schedule SRGRE (Sam Rayburn G&T Electric Cooperative, Inc.); (12) Billing Agreement between Gulf States and SRDE, SRMA, and SRG&T; (13) Standstill Agreement between Gulf States and SRMA and SRDE; and (14) Mutual Release and Covenant Not to Sue between Gulf States and SRMA.

Gulf States that, as a result of SRG&T's termination of its participation in the PIA and PSA and other changes in the parties' relationships, Gulf States, SRMA, and SRDE have agreed to several modifications of the PIA and PSA and service and rate schedules. In addition, Gulf States, SRMA, SRG&T, and SRDE have entered a Billing Agreement concerning SRDE's acting as SRMA and SRG&T's agent for purposes of receiving billings from Gulf States. These and other related arrangements among the parties are the subject of the filing.

Gulf States requests an effective date of August 1, 1991, for Amendment No. 6 to the PSA, Rate Schedule WPS, Amendment No. 4 to the PIA, the Billing Agreement, and the Mutual Release and Covenant Not to Sue.

Gulf States requests an effective date of June 1, 1990, for Amendment No. 7 to the PSA, Amendment No. 5 to the PIA including Riders A to Service Schedules ES and RE, the "Rate for Supplemental Service Under Service Schedule ES (Sam Rayburn Municipal Power Agency)," and the "Rate for Supplemental Service Under Service Schedule RE (Sam Rayburn Municipal Power Agency)." Gulf States request an effective date of December 1, 1989, for Amendments Nos. 4 and 5 to the PSA.

Pursuant to 18 CFR 35.11, Gulf States requests a waiver of the notice provisions of the Federal Power Act and the Commission's regulations to allow these effective dates.

Gulf States states that the effective date of the "Rate for Supplemental Service Under Service Schedule SRGES (Sam Rayburn G&T Electric Cooperative, Inc.)" and the "Rate for Supplemental Service Under Service Schedule SRGRE (Sam Rayburn G&T Electric Cooperative, Inc.)" is August 19, 1989, in accordance with the Commission's Letter Order in Docket No. ER89-551-000, and that, by its terms, the effective date of the Standstill Agreement is August 19, 1989.

Copies of the filing were served on Sam Rayburn G&T Electric Cooperative, Inc., Sam Rayburn Municipal Power Agency, and the Public Utility Commission of Texas.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Co.

[Docket No. ER91-444-000]

Take notice that on May 20, 1991, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following agreement, executed on May 14, 1991 by the respective parties: Edison-IID 1991 Summer Power Sale Agreement between Southern California Edison Company (Edison) and Imperial Irrigation District (IID).

The Agreement establishes the terms and conditions whereby Edison shall provide 50 megawatts of capacity and associated energy to IID from June 1, 1991 through September 30, 1991.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

14. Boston Edison Co.

[Docket No. ER91-452-000]

Take notice that on May 20, 1991, Boston Edison Company (Boston Edison) tendered for filing a Notice of Cancellation of the Service Agreement No. 1 to FERC Electric Tariff Original Volume No. V and Service Agreement No. 7 to FERC Electric Tariff No. III.

Boston Edison requests an effective date of May 1, 1991 and requests waiver of the sixty notice period.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Co.

[Docket No. ER91-443-000]

Take notice that on May 20, 1991, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following agreement, executed on May 14, 1991, by the respective parties: Edison-SMUD 1991 Summer Power Sale Agreement between Southern California Edison Company (Edison) and Sacramento Municipal Utility District (SMUD).

The Agreement establishes the terms and conditions whereby Edison shall provide 60 megawatts of capacity and associated energy to SMUD from June 1, 1991 through September 30, 1991.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

16. Cogeneration Partners of America

[Docket No. QF90-176-001]

On May 16, 1991, Cogeneration Partners of America, Agent for Vineland Cogeneration Limited Partnership of 3 Executive Campus, P.O. Box 2910, Cherry Hill, New Jersey 08034-0258 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Vineland, New Jersey. The facility will consist of a combustion turbine generator and a heat recovery boiler. Thermal energy recovered from the facility will be used for cooking and cleaning operation of various food products. The primary energy source will be natural gas with distillate fuel oil used as a secondary fuel when natural gas supply is interrupted. The net electric power production capacity will be 46.6 megawatts. Atlantic Generation, Inc., an electric utility holding company has 50% ownership interest in the facility. Installation of the facility will begin in fall 1992.

Comment date: Thirty days from publication in the Federal Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-12968 Filed 5-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-460-001; CP90-1375-000]

**Pacific Gas Transmission Co.;
Altamont Gas Transmission Co.;
Availability of the Final Environmental
Impact Statement for the PGT/PG&E
Expansion—Altamont Natural Gas
Pipeline Projects**

May 24, 1991.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has made available a final environmental impact statement (FEIS) on the natural gas pipeline facilities proposed in the above-referenced dockets, and related nonjurisdictional facilities.

The FEIS was prepared to satisfy the requirements of the National Environmental Policy Act. Construction of either of the proposed projects would be a "major Federal action significantly affecting the quality of the human environment." However, the staff concludes that approval of one or both of the proposed projects, with appropriate mitigating measures, including receipt of necessary permits and approvals, would have limited adverse environmental impact. The FEIS evaluates alternatives to each proposal, including the No Action alternative.

Pacific Gas Transmission Company (PGT) proposes, in Docket No. CP89-460-001, to expand the capacity of its existing natural gas pipeline transmission system which extends from the United States/Canadian border at Kingsgate, British Columbia to the Oregon/California border at Malin, Oregon. In order to transport up to an additional 903 million cubic feet per day (MMcf/d) of natural gas, PGT would construct 430 miles of 42-inch-diameter pipeline loop in 7 segments through the

states of Idaho, Washington, and Oregon, and replace/install additional compression at 3 existing compressor stations. Minor modifications would also be required at nine additional stations. The new gas would be received at Kingsgate from Alberta Natural Gas Company, Ltd. and transported for delivery at existing interconnections with Northwest Pipeline Corporation (Northwest) at Stanfield, Oregon and with Pacific Gas and Electric Company (PG&E) at Malin, Oregon. Northwest would deliver 148 MMcf/d of the gas to customers in the Pacific Northwest and intermountain region, while PG&E would deliver 755 MMcf/d of the gas to customers within the state of California.

In order to accommodate the additional gas deliveries from PGT, PG&E proposes to construct 415 miles of 42- and 36-inch-diameter pipeline loop in 5 segments between the Oregon-California border and a point near Panoche Station, California. Additionally, PG&E proposes to make minor modifications at three existing compressor stations, install additional compression at its Delevan Compressor Station, and either expand its Brentwood Compressor Station or construct an additional station at a new location. PG&E is not regulated by the FERC. However, because their facilities would not be constructed without FERC approval of the PGT expansion, the FEIS discusses the potential impact of the nonjurisdictional PG&E facilities on federally listed threatened and endangered species, cultural resources, and federally administered lands within California. The FEIS also incorporates by reference relevant portions of the Final Environmental Impact Report (FEIR) prepared by the California Public Utilities Commission (CPUC) for the facilities proposed by PG&E. The FEIR was issued by the CPUC on November 19, 1990, and the CPUC authorized the construction of PG&E's facilities on December 27, 1990. Incorporation of the FEIR will eliminate duplication of this information in the FEIS. With the exception of the three limited issues concerning the non-jurisdictional facilities in California, all other issues/comments concerning the California facilities should be directed to the CPUC.

Altamont Gas Transmission Company (Altamont) proposes, in Docket No. CP90-1375-000, to construct a new natural gas transmission system from the United States/Canadian border near Wild Horse, Montana to a point in southwest Wyoming near Opal. Altamont's system would consist of 620 miles of 30-inch-diameter pipeline, 6 compressor stations, 1 meter station,

and related appurtenant facilities. Gas would be received at Wild Horse from NOVA Corporation of Alberta and transported for delivery to Kern River Gas Transmission Company (Kern River) at its certificated interconnection with Northwest near Opal. Kern River would then transport up to 700 MMcf/d of natural gas for Altamont to customers in southern California. Incremental facilities required on the certificated Kern River system in order to accommodate gas received from Altamont at the proposed Opal interconnection would consist of installing additional compression at two compressor stations and construction of five new compressor stations.

Detailed listings of the facilities associated with each project, land requirements, and counties affected by the proposed construction were published in the Federal Register on August 14, 1989 (54 FR 33272). Issuance of the FERC's Draft EIS was noticed by the FERC on January 16, 1991 (56 FR 1623), and by the U.S. Environmental Protection Agency on January 18, 1991 (56 FR 2017).

The FEIS will be used in the regulatory decision-making process at the FERC. While the period for filing motions to intervene in these cases has expired, motions to intervene out-of-time can be filed with the FERC in accordance with the requirements of rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214(d)).

The FEIS is available for public inspection in the FERC's Division of Public Information, room 3104, 941 North Capitol Street NE., Washington, DC 20426. Copies have been mailed to Federal, state and local agencies, public interest groups, libraries, parties in the FERC proceedings interested in environmental issues, and other interested individuals. The FEIS is also available for public inspection at the CPUC in San Francisco, CA.

A limited number of copies of the FEIS are also available from Mr. Mark C. Kalpin, PGT/PG&E Expansion Project Manager, or Mr. Laurence J. Sauter, Jr., Altamont Project Manager. Messrs. Kalpin and Sauter can be reached either at (202) 208-0918 or (202) 208-0205, respectively, or by writing to them at the following address: Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation, Environmental Compliance and Project Analysis Branch, Room 7312—PR21.4, 825 North Capitol Street NE., Washington, DC 20426.

An Executive Summary of the FEIS was also prepared and sent to

approximately 1400 property owners directly affected by the projects, as well as 600 other environmental groups and organizations and the remaining parties in the FERC proceedings. Those individuals receiving the Executive Summary who wish to receive the entire FEIS may request copies from Messrs. Kalpin or Sauter while supplies last.

Lois D. Cashell,

Secretary.

[FR Doc. 91-12966 Filed 5-31-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-433-003]

El Paso Natural Gas Co.; Compliance Filing

May 24, 1991.

Take notice that on April 19, 1991, Pacific Gas and Electric Company (PG&E), in response to the Commission's Order Amending Certificate in Docket No. CP88-433-001, issued March 20, 1991, submitted for filing an Information Submittal in which PG&E states that the only procedures that it is currently proposing for implementing the open access, nondiscriminatory transportation assignment program on the El Paso Natural Gas Company (El Paso) system are those contained in a settlement it has filed with the Public Utilities Commission of the State of California. PG&E's filing includes a copy of the settlement.

The March 20, 1991 Order directed PG&E to file written procedures stating how it plans to implement the open access, nondiscriminatory requirements of the El Paso transportation assignment program. PG&E states that its submittal is made without conceding or admitting the Commission's jurisdiction over PG&E's actions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All protests should be filed on or before ten days from issuance of this notice. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 91-12967 Filed 5-31-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-27-NG]

Venro Petroleum Corp.; Application To Export Natural Gas To Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on April 8, 1991, of an application filed by Venro Petroleum Corporation (Venro) requesting blanket authorization to export from the United States to Mexico up 146 Bcf of natural gas on a short-term or spot market basis over a two-year period beginning with the date of first delivery. Venro states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time July 3, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-9478

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-6667.

SUPPLEMENTARY INFORMATION: Venro is a Delaware corporation with its principal place of business in Houston, Texas. According to Venro, the gas to be exported would be purchased from U.S. producers in the States of Texas, Louisiana, and New Mexico, primarily for sales to Petroleos Mexicanos (Pemex), Mexico's natural oil company. All sales would result from arms-length negotiations and prices will be

determined by market conditions. Venro intends to use existing pipeline facilities to export this gas.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notices of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.318.

A copy of Venro's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 28, 1991.
 Clifford P. Tomaszewski,
Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.
 [FR Doc. 91-13036 Filed 5-31-91; 8:45 am]
 BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-903-DR]

Kansas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of

Kansas (FEMA-903-DR), dated April 29, 1991, and related determinations.

DATES: May 20, 1991.

FOR FURTHER INFORMATION CONTACT:
 Neva K. Elliott, Disaster Assistance
 Programs, Federal Emergency
 Management Agency, Washington, DC
 20472 (202) 646-3614.

NOTICE: The notice of a major disaster for the State of Kansas, dated April 29, 1991, is hereby amended to include Public Assistance in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 29, 1991:

The counties of Butler, Cowley, and Sedgwick for Public Assistance. (Already designed for Individual Assistance.)
 (Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

*Acting Associate Director, State and Local
 Programs and Support Federal Emergency
 Management Agency.*

[FR Doc. 91-13021 Filed 5-31-91; 8:45 am]

BILLING CODE 6718-02-M

Kansas; Amendment to Notice of a Major Disaster Declaration

[FEMA-903-DR]

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas (FEMA-903-DR), dated April 29, 1991, and related determinations.

DATES: May 20, 1991.

FOR FURTHER INFORMATION CONTACT:
 Neva K. Elliott, Disaster Assistance
 Programs, Federal Emergency
 Management Agency, Washington, DC
 20472 (202) 646-3614.

NOTICE: Notice is hereby given that the incident period for this disaster is amended to be April 26, 1991, through and including May 19, 1991.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

*Acting Deputy Associate Director, State and
 Local Programs and Support, Federal
 Emergency Management Agency.*

[FR Doc. 91-13022 Filed 5-31-91; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-904-DR]

Louisiana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-904-DR), dated May 3, 1991, and related determinations.

DATES: May 22, 1991.

FOR FURTHER INFORMATION CONTACT:
 Neva K. Elliott, Disaster Assistance
 Programs, Federal Emergency
 Management Agency, Washington, DC
 20472 (202) 646-3614.

NOTICE: The notice of a major disaster for the State of Louisiana dated May 3, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 3, 1991:

The parishes of Avoyelles, Concordia, Iberville, La Salle, Lincoln, and St. John the Baptist for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

*Acting Deputy Associate Director, State and
 Local Programs and Support, Federal
 Emergency Management Agency.*

[FR Doc. 91-13023 Filed 5-31-91; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-906-DR]

Mississippi; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA-906-DR), dated May 17, 1991, and related determinations.

DATES: May 17, 1991.

FOR FURTHER INFORMATION CONTACT:
 Neva K. Elliott, Disaster Assistance
 Programs, Federal Emergency
 Management Agency, Washington, DC
 20472 (202) 646-3614.

NOTICE: Notice is hereby given that, in a letter dated May 17, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Public Law 100-707), as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from severe storms, tornadoes, and flooding beginning on April 26, 1991, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency

Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be provided at a later date, if damage assessments warrant. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael J. Polny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

The counties of Carroll, Coahoma, Grenada, Holmes, Humphreys, Leflore, Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Warren, Washington, and Yalobusha for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

[Dated: May 21, 1991].

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91-3024 Filed 5-31-91; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-906-DR]

Mississippi; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi (FEMA-906-DR), dated May 17, 1991, and related determinations.

DATE: May 23, 1991.

FOR FURTHER INFORMATION CONTACT:

Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

NOTICE: The notice of a major disaster for the State of Mississippi, dated May 17, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 17, 1991:

The counties of Bolivar, George, Harrison, Issaquena, and Pearl River for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91-13025 Filed 5-31-91; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-905-DR]

Oklahoma; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA-905-DR), dated May 8, 1991, and related determinations.

DATES: May 22, 1991.

FOR FURTHER INFORMATION CONTACT:

Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

NOTICE: The notice of a major disaster for the State of Oklahoma, dated May 8, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 8, 1991:

Osage County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91-13026 Filed 5-31-91; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

ACL/Wallenius Space Charter; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011261-001

Title: ACL/Wallenius Space Charter and Cooperative Working Agreement.

Parties:

Walleniusrederierna AB ("Wallenius").

Atlantic Container Line AB ("ACL"). Rederiaktiebolaget Transatlantic Incotrans BV.

Synopsis: The proposed amendment would add a new provision to the Agreement Authority permitting ACL and Wallenius to discuss and voluntarily agree, in a non-binding manner, on rates and conditions for the carriage of non-containerizable cargo and certain specified types of wheeled vehicles in the trade. It would also make other non-substantive changes.

Dated: May 29, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13045 Filed 5-31-91; 8:45 am]

BILLING CODE 6730-01-M

City of Los Angeles Evergreen Marine Corporation, et al. Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the

Commission regarding a pending agreement.

Agreement No.: 224-010825-006.

Title: City of Los Angeles/Evergreen Marine Corporation (Taiwan), Ltd. Marine Terminal Agreement.

Parties:

City of Los Angeles,
Evergreen Marine Corporation;
(Taiwan), Ltd. (Evergreen).

Synopsis: The Agreement extends the date for renegotiating compensation under the Agreement and extends the date on which Evergreen could exercise an option to terminate this Agreement.

Agreement No.: 224-200523.

Title: Port Authority of New York and New Jersey/Atlantic Container Line AB Terminal Agreement.

Parties:

Port Authority of New York and New Jersey (Port);
Atlantic Container Line AB (ACL).

Synopsis: The Agreement, filed May 24, 1991, provides for: The Port to pay ACL \$25 per import and \$50 per export container with cargo loaded/unloaded from a vessel at the Port and shipped by rail to or from points more than 260 miles from the Port, subject to rail freight bills or waybills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

Agreement No.: 224-200524.

Title: Port Authority of New York and New Jersey/Sea-Land Service, Inc. Terminal Agreement.

Parties:

Port Authority of New York and New Jersey (Port);
Sea-Land Service, Inc. (Sea-Land).

Synopsis: The Agreement, filed May 24, 1991, provides for: The Port to pay Sea-Land \$25 per import and \$50 per export container with cargo loaded/unloaded from a vessel at the Port and shipped by rail to or from points more than 260 miles from the Port, subject to rail freight bills or waybills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

Agreement No.: 224-200525.

Title: Port Authority of New York and New Jersey/Maersk, Inc. Terminal Agreement.

Parties:

Port Authority of New York and New Jersey (Port);
Maersk Inc. (Maersk).

Synopsis: The Agreement, filed May 24, 1991, provides for: The Port to pay Maersk \$25 per import and \$50 per export container with cargo loaded/unloaded from a vessel at the Port and

shipped by rail to or from points more than 260 miles from the Port, subject to rail freight bills or waybills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13044 Filed 5-31-91; 8:45 am]

BILLING CODE 6730-01-M

Jackson County Port Authority/Ryan-Walsh Marine Terminal; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in §§ 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200180-001.

Title: Jackson County Port Authority/Ryan-Walsh Marine Terminal Agreement.

Parties:

Jackson County Port Authority and Board of Supervisors of Jackson County, Mississippi (Port);
Ryan-Walsh, Inc.

Filing Party: Mr. Fred S. Sherman, Executive Director, Jackson County Port Authority, 3033 Pascagoula Street, P.O. Box 70, Pascagoula, MS 39568-0070.

Synopsis: The Agreement, filed May 28, 1991, amends the basic agreement to: (1) Extend its term to December 31, 1995; (2) provide the rental terms for the extended term; and (3) provide that the Port's tariff charges not specifically addressed in the basic agreement are for the account of the Port.

Dated: May 29, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13046 Filed 5-31-91; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC); Meeting

Name: Control Technology Guidelines for Health Care Facilities.

Time and Date: 9 a.m.-12 noon, June 28, 1991.

Place: Alice Hamilton Laboratory, Conference Room B, NIOSH, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available.

Purpose: To conduct an open meeting for the review of a project titled "Control Technology Guidelines for Health Care Facilities." This project will evaluate current recommendations and, if necessary, develop new guidelines for controlling the spread of airborne infectious diseases in health-care facilities.

Contact Person for Additional Information: Vincent D. Mortimer, P.E., NIOSH, CDC, 4676 Columbia Parkway, Mailstop R-5, Cincinnati, Ohio 45226, telephone 513/841-4307 or FTS 684-4307.

Dated: May 28, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination
Centers for Disease Control.

[FR Doc. 91-13001 Filed 5-31-91; 8:45 am]

BILLING CODE 4160-19-M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* HCFA Forms and Manual Order; *Form Number:* HCFA-1961; *Use:* This form is used by Medicare intermediaries, carriers, State Agencies, Social Security Administration and End-Stage Renal Disease networks to order Medicare/Medicaid forms and program manuals from HCFA; *Frequency:* Annually; *Respondents:* State/local governments, businesses/other for profit, and Federal agencies/employees; *Estimated Number of Responses:* 589; *Average Hours per Response:* 3.942; *Total Estimated Burden Hours:* 2,322.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Hospital Survey Report Form; *Form Number:* HCFA-1537; *Use:* The Social Security Act provides that hospitals participating in Medicare must meet specific requirements which are presented as conditions of participation. State Agencies must determine compliance with these conditions through the use of this report form; *Frequency:* On occasion; *Respondents:* State/local governments; *Estimated Number of Responses:* 1,539; *Average Hours per Response:* 3.25; *Total Estimated Burden Hours:* 5,001.

3. *Type of Request:* Revision; *Title of Information Collection:* Medicaid Integrated Quality Control Review Worksheet; *Form Number:* HCFA-316; *Use:* State Agencies are required to perform quality control (QC) review for the Aid to Families with Dependent Children, Food Stamps, and Medicare programs. The integrated review worksheet is designed to collect both case characteristics and QC data for all QC reviews in the three Federal assistance programs listed above; *Frequency:* Monthly; *Respondents:* State/local governments; *Estimated Number of Responses:* 612; *Average Hours per Response:* 440.2 (reporting) and 377.8 (recordkeeping); *Total Estimated Burden Hours:* 269,419 (reporting) and 19,269 (recordkeeping) for a total of 288,688 hours.

4. *Type of Request:* Reinstatement; *Title of Information Collection:* End-Stage Renal Disease (ESRD) Beneficiary Selection; *Form Number:* HCFA-382; *Use:* ESRD facilities have each new home dialysis patient select one of two methods to handle Medicare reimbursement. The intermediaries pay for the beneficiaries selecting reimbursement under method I and carriers pay for the beneficiaries selecting reimbursement under method II. This system was developed to avoid duplicate billing by both intermediary and carrier; *Frequency:* One-time;

Respondents: Individuals/households, businesses/other for profit, and small businesses/organizations; *Estimated Number of Responses:* 4,000; *Average Time per Response:* 5 minutes; *Total Estimated Burden Hours:* 333.

5. *Type of Request:* Revision; *Title of Information Collection:* Current Beneficiary Survey (CBS), Round 1; *Form Number:* HCFA-P-15; *Use:* Round 1 of the Medicare CBS will assess access to health care and baseline information to aid in evaluating the impact of physician payment reform. Both the household and the nursing home component will be fielded. These will collect basic demographic and utilization information and provide boundaries (timeframes) for the collection of cost, charge, and payment information; *Frequency:* One-time for households and twice for nursing homes; *Respondents:* Individuals/households, businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 14,000; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 14,000.

6. *Type of Request:* New; *Title of Information Collection:* Task 4, Home Care Worker Supply, Home Care Quality Studies; *Form Number:* HCFA-R-3; *Use:* The collection is proposed to provide data about the characteristics of home care workers and those who do not provide home care services in order to understand the factors affecting the supply of the home care labor market by Medicare and/or Medicaid providers both and in the future; *Frequency:* One-time; *Respondents:* Individuals/households, businesses/other for profit, and small businesses/organizations; *Estimated Number of Responses:* 1,068; *Average Time per Response:* 37 minutes; *Total Estimated Burden Hours:* 658.

7. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in 42 CFR 416.43 and 416.47 (Ambulatory Surgical Centers); *Form Number:* HCFA-R-54; *Use:* The regulations standards are designed to ensure that each ambulatory surgical center facility has a properly trained staff and adequate physical environment to provide the appropriate type and level of care for that type of facility; *Frequency:* Not applicable; *Respondents:* State/local governments and small businesses/organizations; *Estimated Number of Responses:* Not applicable; *Average Time per Response:* Not applicable; *Total Estimated Burden Hours:* 12,760 (recordkeeping).

8. *Type of Request:* New; *Title of Information Collection:* Survey Team Composition and Workload Report;

Form Number: HCFA-670; *Use:* The Omnibus Budget Reconciliation Act of 1987 required revision of the survey process and the Clinical Laboratory Improvement Act of 1988 required laboratories to be surveyed and certified. This form is used to determine reimbursement to State survey agencies for the amount of time spent surveying; *Frequency:* On occasion; *Respondents:* State/local governments and Federal agencies/employees; *Estimated Number of Responses:* 700,000; *Average Time per Response:* 10 minutes; *Total Estimated Burden Hours:* 116,667.

9. *Type of Request:* Reinstatement; *Title of Information Collection:* Pacemaker Related Data; *Form Number:* HCFA-497; *Use:* This information, gathered from providers and manufacturers, is needed to assist in the development of the Food and Drug Administration's registry file as well as to determine when manufacturer warranty supersedes Medicare reimbursement; *Frequency:* On occasion; *Respondents:* Businesses/other for profit; *Estimated Number of Responses:* 165,000; *Average Time per Response:* 8 minutes; *Total Estimated Burden Hours:* 22,000.

10. *Type of Request:* Extension; *Title of Information Collection:* Hospital and Hospital Health Care Complex Report; *Form Number:* HCFA-2552-DEMO; *Use:* This form is used by hospitals and hospital health care complexes to report their health care costs and by their servicing intermediaries to determine amounts payable for the services furnished Medicare beneficiaries; *Frequency:* Annually; *Respondents:* Businesses/other for profit, non-profit institutions, and small businesses/organizations; *Estimated Number of Responses:* 700; *Average Hours per Response:* 1; *Total Estimated Burden Hours:* 5,600 (reporting) and 99,400 (recordkeeping) for a total of 105,000 hours.

11. *Type of Request:* Revision; *Title of Information Collection:* State Drug Rebate (Medicaid); *Form Numbers:* HCFA-368 and HCFA-R-144; *Use:* These requirements implement provisions of the Omnibus Budget Reconciliation Act of 1990 in that State Medicaid agencies report to drug manufacturers and HCFA on the drug utilization for their States and the amount of rebate to be paid by the manufacturers; *Frequency:* Quarterly; *Respondents:* State/local governments; *Estimated Number of Responses:* 209; *Average Hours per Response:* 29.31; *Total Estimated Burden Hours:* 6,125. HCFA requested and received emergency clearance by OMB for these

forms. OMB granted approval through July 31, 1991, under OMB No. 0938-0582.

Additional Information or Comments: Call the Reports Clearance Officer on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Herron, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: May 24, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91-13019 Filed 5-31-91; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Room Change for Meeting

The Federal Register notice of March 22, 1991 (56 FR 12207) regarding the meeting of the Task Force on Opportunities for Research on Women's Health is corrected as follows:

On June 12 the Task Force will meet in Conference Room 10, Building 31 (C Wing), National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

On June 13 the Task Force will meet in Conference Room 4, Building 31 (A Wing), National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Dated: May 28, 1991.

William F. Raub,

Deputy Director, NIH.

[FR Doc. 91-12976 Filed 5-31-91; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the President's Cancer Panel

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute on July 9, 1991. The meeting will be held at Wilson Hall, James A. Shannon Building, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on July 9, from 8:30 a.m. until Noon. Attendance will be limited to space available. Agenda items will include reports by the Secretary; DHHS; the Chairman, President's Cancer Panel; the Director, NCI; and other invited participants. The major topic for this meeting will be "Cancer and Poverty."

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, room 4A32, National Institutes of Health, Bethesda, Maryland 20892 (301/496-1148) will provide a roster of the Panel members and substantive program information upon request.

Dated: May 22, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12973 Filed 5-31-91; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for June

through July 1991, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	June-July 1991 meeting	Time	Location
AIDS & Related Research 1, Dr. Sami Mayyasi, Rm. A13, Tel. 301-496-0012.	July 17-18	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 2, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191.	July 1	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons, Rm. A13, Tel. 301-496-7286.	June 26-28	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 4, Dr. Mohindar Poonian, Rm. A10, Tel. 301-496-4666.	July 15-16	8:30	Holiday Inn Crowne Plaza, Rockville, MD.
AIDS & Related Research 5, Dr. Mohindar Poonian, Rm. A10, Tel. 301-496-4666.	July 12	8:30	Holiday Inn Crowne Plaza, Rockville, MD.
AIDS & Related Research 6, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191.	July 12	8:30	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191.	July 26	8:30	Holiday Inn, Chevy Chase, MD.
Behavioral and Neurosciences—1, Dr. Luigi Giacometti, Rm. 303, Tel. 301-496-5352.	July 8-10	8:30	St. James Hotel, Washington, DC.
Behavioral and Neurosciences—2, Dr. Luigi Giacometti, Rm. 303, Tel. 301-496-5352.	July 11	8:30	St. James Hotel, Washington, DC.
Biological Sciences—1, Dr. James R. King, Rm. A22, Tel. 301-496-1067.	July 17-19	8:30	St. James Hotel, Washington, DC.
Biological Sciences—2, Dr. Syed Amir, Rm. 326, Tel. 301-496-3117.	July 15-17	8:30	Holiday Inn, Georgetown, DC.
Biological Sciences—3, Mr. Gene Headley, Rm. A27, Tel. 301-496-6724.	July 15-16	8:30	St. James Hotel, Washington, DC.
Biomedical Sciences, Dr. Charles Baker, Rm. 219, Tel. 301-496-7150.	July 29-31	8:30	Holiday Inn, Georgetown, DC.
Clinical Sciences—1, Ms. Jo Pelham, Rm. 353, Tel. 301-496-7477.	July 18-19	8:30	Holiday Inn, Chevy Chase, MD.
Clinical Sciences—2, Ms. Jo Pelham, Rm. 353, Tel. 301-496-7477.	July 25-26	8:00	Holiday Inn, Chevy Chase, MD.
Immunology, Virology & Pathology, Dr. Lynwood Jones, Rm. A20, Tel. 301-496-7510.	July 17-19	8:30	Holiday Inn, Chevy Chase, MD.

Study section	June-July 1991 meeting	Time	Location
International & Cooperative Projects, Dr. Sandy Warren, Rm. 222, Tel. 301-496-7600.	July 30-31	8:00	Hyatt Regency Hotel, Bethesda, MD.
Physiological Sciences, Dr. Nicholas Mazarella, Rm. 222, Tel. 301-496-1069.	July 18-19	8:30	Holiday Inn Crowne Plaza, Rockville, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393-13.396, 13.837-13.844, 13.846-13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: May 21, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12972 Filed 5-31-91; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meetings of the Board of Regents and Subcommittees

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on June 20-21, 1991, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Subcommittees will meet on June 19 as follows:

The Extramural Programs Subcommittee, 5th-floor Conference Room, Building 38A, 2 to approximately 3:30 p.m., and the Planning Subcommittee, Conference Room B, Building 38, 4 to approximately 5 p.m. The Extramural Programs Subcommittee will be closed to the public.

The meeting of the Board will be open to the public from 9 to approximately 3:30 p.m. on June 20 and from 9 a.m. to adjournment on June 21 for administrative reports and program discussions. Attendance will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the entire meeting of the Extramural Programs Subcommittee on June 19 will be closed to the public, and the regular Board meeting on June 20 will be closed from approximately 3:30 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of

Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: May 20, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12975 Filed 5-31-91; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meeting of the Biomedical Library Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee on June 26-27, 1991, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 26 will be open to the public from 8:30 to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting on June 26 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on June 27, from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone

number: 301-496-4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health.)

Dated: May 20, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91-12974 Filed 5-31-91; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-28]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATES: June 3, 1991.

ADDRESSES: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real

property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the *Federal Register* identifying the properties determined as suitable.

The properties identified as suitable in this Notice have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable and available in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the

opportunity to utilize a suitable property, providers should submit such written expressions of interest within 60 days from the date of this Notice. For complete details concerning the processing of applications, the reader is encouraged to refer to HUD's *Federal Register* Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

This Notice also contains a list of properties determined by HUD to be unsuitable for use as facilities to assist the homeless. These properties will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the *Federal Register*, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, existing street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Army*: Robert Conte, Dept. of Army, Military Facilities, DAEN-ZCI-P; rm. 1E671, Pentagon, Washington, DC 20310-2600; (202) 693-4583; *GSA*: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501-0067; *U.S. Navy*: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332-2300; (202) 325-0474; *Dept. of Commerce*: Jim McCombs, Office of Federal Property Programs, room 1037, 14th St. and Constitution Ave. NW., Washington, DC 20230; (202) 377-3580; (202) 366-5601; (These are not toll-free numbers.)

Dated: May 24, 1991.

Russell K. Paul,
Deputy Assistant Secretary for Grant Programs.

SUITABLE/AVAILABLE PROPERTIES

Alaska

Suitable/Available Land (by Agency)

Army

Eklutna Dispersal Site
Fort Richardson
Anchorage, AK, Co: Anchorage 99505
Federal Register Notice Date: 05/31/91
Property Number: 219014606

Status: Underutilized
Base Closure: No
Comment: 500 acres; parkland; environmentally protected.

Commerce

Gibson Cove
1211 Gibson Cove Road
Kodiak, AK, Co: Kodiak Island 99615
Federal Register Notice Date: 05/31/91
Property Number: 279010002
Status: Excess
Base Closure: No
Comment: 7.44 acres; small rock peninsula, most recent use-windbreak for cove.

Army

Nome Army Site
Nome, AK, Co: Nome
Location: Located on shoreline of Norton Sound on Bering Sea
Federal Register Notice Date: 05/31/91
Property Number: 219013779
Status: Underutilized
Base Closure: No
Comment: 2.2 acres; limited utilities.

Alabama

Suitable/Available Buildings (by Agency)

Army

Bldg. T00220
Fort McClellan
Fort McClellan, AL, Co: Calhoun 36205-5000
Location: Take left turn off Baltzell Gate Road
Federal Register Notice Date: 05/31/91
Property Number: 219110041
Status: Underutilized
Base Closure: No
Comment: 1040 sq. ft.; 1 story wood frame; needs major rehab; termite infested; off-site use only.

Bldg. T00221
Fort McClellan
Fort McClellan, AL, Co: Calhoun 36205-5000
Location: Take left turn off Baltzell Gate Road
Federal Register Notice Date: 05/31/91
Property Number: 219110042
Status: Underutilized
Base Closure: No
Comment: 4125 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00796
Fort McClellan
Fort McClellan, AL, Co: Calhoun 36205-5000
Location: Intersection of 19th and 20th Streets
Federal Register Notice Date: 05/31/91
Property Number: 219110043
Status: Unutilized
Base Closure: No
Comment: 1340 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldg. T00883
Fort McClellan
3rd Avenue
Ft. McClellan, AL, Co: Calhoun 36205-5000
Federal Register Notice Date: 05/31/91
Property Number: 219110044
Status: Unutilized
Base Closure: No

Comment: 760 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldg. T00890
Fort McClellan
2nd Avenue

Fort McClellan, AL, Co: Calhoun 36205-5000
Federal Register Notice Date: 05/31/91

Property Number: 219110045

Status: Underutilized

Base Closure: No

Comment: 1713 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldg. T00895

Fort McClellan

3rd Avenue in Area 8 Motor Pool Compound

Fort McClellan, AL, Co: Calhoun 36205-5000

Federal Register Notice Date: 05/31/91

Property Number: 219110047

Status: Unutilized

Base Closure: No

Comment: 108 sq. ft.; one story wood floor with metal walls; off-site use only.

Bldgs. T01121, T01123, T01124

Fort McClellan

MacArthur Avenue

Fort McClellan, AL, Co: Calhoun 36205-5000

Federal Register Notice Date: 05/31/91

Property Numbers: 219110048-219110050

Status: Unutilized

Base Closure: No

Comment: 2400 sq. ft. each; two story wood frame; need rehab; presence of asbestos; off-site use only.

Bldg. T01125

Fort McClellan

21st Street and MacArthur Avenue

Fort McClellan, AL, Co: Calhoun 36205-5000

Federal Register Notice Date: 05/31/91

Property Number: 219110051

Status: Unutilized

Base Closure: No

Comment: 2556 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01394

Fort McClellan

4th Avenue in Area 13 of Post

Fort McClellan, AL, Co: Calhoun 36205-5000

Federal Register Notice Date: 05/31/91

Property Number: 219110052

Status: Unutilized

Base Closure: No

Comment: 191 sq. ft.; one story tin and lumber building; needs major rehab; off-site use only.

Bldg. T01692 :

Fort McClellan

25th Street

Fort McClellan, AL, Co: Calhoun 36205-5000

Federal Register Notice Date: 05/31/91

Property Number: 219110053

Status: Unutilized

Base Closure: No

Comment: 4404 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldgs. T02264, T02266-T02268

Fort McClellan

WAC Circle

Fort McClellan, AL, Co: Calhoun 36205-5000

Federal Register Notice Date: 05/31/91

Property Numbers: 219110054-219110057

Status: Unutilized

Base Closure: No

Comment: 664 sq. ft. each; one story wood frame; needs major rehab; electrical hazard; presence of asbestos; off-site use only.

Bldg. T00123

Post Chapel - Fort Rucker

5th Avenue

Fort Rucker, AL, Co: Dale 36362-

Federal Register Notice Date: 05/31/91

Property Number: 219110145

Status: Unutilized

Base Closure: No

Comment: 4798 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T09307

Post Chapel - Fort Rucker

3rd Avenue

Fort Rucker, AL, Co: Dale 36362-

Federal Register Notice Date: 05/31/91

Property Number: 219110146

Status: Unutilized

Base Closure: No

Comment: 3739 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T09309

Fort Rucker - Education Facility

3rd Avenue

Fort Rucker, AL, Co: Dale 36362-

Federal Register Notice Date: 05/31/91

Property Number: 219110147

Status: Unutilized

Base Closure: No

Comment: 1500 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Arkansas

Suitable/Available Land (by Agency)

Army

Pine Bluff Arsenal

Pine Bluff, AR, Co: Jefferson 71602-9500

Location: 8 miles north of Pine Bluff on

Highway 365

Federal Register Notice Date: 05/31/91

Property Number: 219013841

Status: Unutilized

Base Closure: No

Comment: 1 acre and 3 acres; potential utilities; brush terrain; used as safety buffer; subject to easements.

Suitable/Available Buildings (by Agency)

Fort Chaffee

U.S. Army Garrison

1095 4th Avenue

Barling, AR, Co: Sebastian 72905-5000

Federal Register Notice Date: 05/31/91

Property Number: 219012811

Status: Underutilized

Base Closure: No

Comment: 3634 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chaffee

U.S. Army Garrison

1094 4th Avenue

Barling, AR, Co: Sebastian 72905-5000

Federal Register Notice Date: 05/31/91

Property Number: 219012812

Status: Underutilized

Base Closure: No

Comment: 2181 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chaffee

U.S. Army Garrison

1092 4th Avenue

Barling, AR, Co: Sebastian 72905-5000

Federal Register Notice Date: 05/31/91

Property Number: 219012813

Status: Underutilized

Base Closure: No

Comment: 3321 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

U.S. Army Garrison

Fort Chaffee

1070 2nd Avenue

Barling, AR, Co: Sebastian 72905-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013267

Status: Underutilized

Base Closure: No

Comment: 3191 sq. ft.; 2 story wood frame; possible asbestos; selected periods used for military training; most recent use—barracks.

U.S. Army Garrison

Fort Chaffee

260 Taylor Avenue

Fort Chaffee, AR, Co: Sebastian 72905-5000

Federal Register Notice Date: 05/31/91

Property Number: 219110112

Status: Underutilized

Base Closure: No

Comment: 173 sq. ft.; one story; no water or heat in bldg.; most recent use—administration.

U.S. Army Garrison

Fort Chaffee

263 Taylor Avenue

Fort Chaffee, AR, Co: Sebastian 72905-5000

Federal Register Notice Date: 05/31/91

Property Number: 219110113

Status: Underutilized

Base Closure: No

Comment: 707 sq. ft.; one story; no water or heat in bldg.; needs rehab; most recent use—storage.

Arizona

Suitable/Available Buildings (by Agency)

Army

Bldg. S-306

Yuma Proving Ground

Main Admin. Area-near inter. 1st & D sts

Yuma, AZ, Co: Yuma/La Paz 85365-9102

Federal Register Notice Date: 05/31/91

Property Number: 219011725

Status: Underutilized

Base Closure: No

Comment: 2 story wood and stucco frame; needs structural upgrading; portion of 2nd floor vacant.

Bldg. S-1003

Yuma Proving Ground

Main Admin Area-5th & Barranca Road

Yuma, AZ, Co: Yuma/La Paz 85365-9102

Federal Register Notice Date: 05/31/91

Property Number: 219011727

Status: Underutilized

Base Closure: No

Comment: 2227 sq. ft.; two-story wood and stucco frame; 2 floor wood and frame;

possible asbestos; bldg. committed to Congress for disposal.

Bldg. S-503

Yuma Proving Ground
Main Admin. Area—2nd St. bet. D & F Sts.
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Federal Register Notice Date: 05/31/91
Property Number: 219011746
Status: Underutilized
Base Closure: No
Comment: 2123 sq. ft.; possible asbestos; 2nd floor vacant; structural upgrading needed; bldg. scheduled for renovation and used as community center.

Bldg. S-501

Yuma Proving Ground
Main Admin. Area—D & 2nd Sts.
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Federal Register Notice Date: 05/31/91
Property Number: 219011747
Status: Unutilized
Base Closure: No
Comment: 4000 sq. ft.; possible asbestos; scheduled for renovation; to be used as "Army Continuing Education Facility"; 2 floors.

Bldg. S-309

Yuma Proving Ground
Main Admin. Area—D & 2nd Sts.
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Federal Register Notice Date: 05/31/91
Property Number: 219011748
Status: Underutilized
Base Closure: No
Comment: 4500 sq. ft.; 2 floors; possible asbestos; scheduled for renovation; Convert from Barracks to Administration Bldg.

Bldg. S-308

Yuma Proving Ground
Main Admin. Area—near 1st & D sts.
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Federal Register Notice Date: 05/31/91
Property Number: 219011749
Status: Underutilized
Base Closure: No
Comment: 2622 sq. ft. on second floor; structural upgrading needed; possible asbestos; scheduled for use by administrative personnel currently housed in trailers.

Bldg. S-611

Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Location: Main Administrative Area—Near intersection of 5th and D streets.
Federal Register Notice Date: 05/31/91
Property Number: 219013928
Status: Unutilized
Base Closure: No
Comment: 1840 sq. ft.; 1 story wood and stucco frame; most recent use—child care center.

Bldg. S-1005

Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Location: Main Administrative Area—Near intersection of 7th and F streets.
Federal Register Notice Date: 05/31/91
Property Number: 219013930
Status: Unutilized
Base Closure: No
Comment: 176 sq. ft.; 1 story wood and stucco frame; most recent use—cold storage and refrigeration facility.

California

Suitable/Available Buildings (by Agency)

Army

Bldgs. 608-610, 612-619, 621-629
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda 94129-
Federal Register Notice Date: 05/31/91
Property Numbers: 219012855-219012874
Status: Unutilized
Base Closure: No
Comment: 49500 sq. ft. each; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 856-869, 875, 881-887, 889-890
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda 94129-
Federal Register Notice Date: 05/31/91
Property Numbers: 219012884-219012897, 219012902-219012911
Status: Unutilized
Base Closure: No
Comment: 63290 sq. ft. each; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 988, 906-909, 912-919, 924-938, 942-959, 966-969, 971-972, 976-979, 987
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda 94129-
Federal Register Notice Date: 05/31/91
Property Numbers: 219012918, 219012923-219012928, 219012929-219012936, 219012938-219012970, 219012975-219012978, 219012980

219012981, 219012984-219012995

Status: Unutilized

Base Closure: No

Comment: 11300 sq. ft. each; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 218, 219, 227-229, 237-249, 252-269, 279, 282, 283, 286-289

Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda 94129-
Federal Register Notice Date: 05/31/91
Property Numbers: 219013002-219013003, 219013011-219013013, 219013021, 219013033, 219013036-219013053, 219013062, 219013065

219013066, 219013068-219013071

Status: Unutilized

Base Closure: No

Comment: 11500 sq. ft. each; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 920-922, 940, 941

Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda 94129-
Federal Register Notice Date: 05/31/91
Property Numbers: 219030289-219030294
Status: Unutilized
Base Closure: No
Comment: 11300 sq. ft. each; 1 story wood frame; needs major rehab; extensive asbestos present.

EM Barracks, T-1201—T-1204, T-1208, T-1214

Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen 96113-
Federal Register Notice Date: 05/31/91
Property Number: 219110117-219110122
Status: Underutilized

Base Closure: No

Comment: 5310 sq. ft. each; two story wood frame; security restrictions.

Open Mess & NCO Club, T-1218

Sierra Army Depot

DS Hall Avenue

Herlong, CA, Co: Lassen 96113-

Federal Register Notice Date: 05/31/91

Property Number: 219110123

Status: Underutilized

Base Closure: No

Comment: 8694 sq. ft.; one story wood frame; needs rehab; presence of asbestos; security restrictions.

GSA

Ukiah Latitude Observatory

432 Observatory Avenue

Ukiah, CA, Co: Mendocino 95482-

Federal Register Notice Date: 05/31/91

Property Number: 549120003

Status: Excess

Base Closure: No

Comment: 1517 Sq. Ft., One story brick/wood frame, easement restrictions, bldg. on 2.6 acres, possible asbestos on pipe insulation
GSA NO. 9-C-CA-1277.

ARMY

T-1771—T-1775, Fort Ord

4th St. and 2nd Ave.

Fort Ord, CA, Co: Monterey 93940-

Federal Register Notice Date: 05/31/91

Property Numbers: 219010738, 219010740,

219010742, 219010743,

219010745

Status: Unutilized

Base Closure: No

Comment: 5 bldgs.; 2 story; possible asbestos, needs extensive repairs.

Colorado

Suitable Land (by Agency)

GSA

Railroad Spur and Right-of-Way

Denver Federal Center

Lakewood, CO, Co: Jefferson 80215-

Federal Register Notice Date: 05/31/91

Property Number: 549120007

Status: Excess

Base Closure: No

Comment: 1.5 miles long (width varies 35 to 200 ft.), limited access, right-of-way restrictions.

GSA No. 7-G-CO-441-Q.

Paonia Govt. Housing Camp

Southside of 2nd Street

at Clark Avenue

Paonia, CO, Co: Delta 81428-

Federal Register Notice Date: 05/31/91

Property Number: 549120004

Status: Excess

Comment: 1.4 acres with paved parking and basketball court, potential utilities

GSA No. 7-GR-CO-413-C.

Georgia

Suitable/Available Buildings (by Agency)

Army

Bldg. 4866

Fort Benning

Fort Benning, GA, Co: Fort Benning 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011485

Status: Unutilized
Base Closure: No
Comment: 794 sq. ft.; 1 floor; most recent use—arms bldg.; major rehab./construction required to be made habitable.

Bldgs. 4920, 4921, 4910, 4911, 4928
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010002–219010003,
219010105–219010106,

219010108
Status: Unutilized
Base Closure: No
Comment: 1888 sq. ft. each; most recent use—barracks; needs rehab.

Bldg. 4915
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91.
Property Number: 219010004
Status: Unutilized
Base Closure: No
Comment: 1297 sq. ft.; most recent use—headquarters building; needs rehab.

Bldg. 4914
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property number: 219010005
Status: Unutilized
Base Closure: No
Comment: 810 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 4927
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010107
Status: Unutilized
Base Closure: No
Comment: 1888 sq. ft.; most recent use—classrooms; 2-stories; needs rehab.

Bldgs. 5288, 5290
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010109, 219010111
Status: Unutilized
Base Closure: No
Comment: 1216 sq. ft. each; most recent use—arms building; needs rehab.

Bldg. 5289
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010110
Status: Unutilized
Base Closure: No
Comment: 1216 sq. ft.; most recent use—store house; needs rehab.

Bldgs. 5291, 5293–5295
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010112, 219010114–
219010116

Status: Unutilized
Base Closure: No
Comment: 2529 sq. ft. each; most recent use—dining room; needs rehab.

Bldg. 5292
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010113
Status: Unutilized
Base Closure: No
Comment: 2525 sq. ft.; most recent use—snack bar; needs rehab.

Bldg. 5297

Fort Benning, GA., Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010117
Status: Unutilized
Base Closure: No
Comment: 1080 sq. ft.; most recent use—storehouse; needs rehab.

Bldgs. 5298–5299
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010118–219010119
Status: Unutilized
Base Closure: No
Comment: 3759 sq. ft. each; most recent use—general; needs rehab.

Bldgs. 5300, 5302
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010120, 219010122
Status: Unutilized
Base Closure: No
Comment: 1400 sq. ft. each; most recent use—day room; needs rehab.

Bldgs. 5301, 5303–5305
Fort Benning, GA., Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010121, 219010123–
219010125
Status: Unutilized
Base Closure: No
Comment: 2124 sq. ft. each; most recent use—barracks; needs rehab.

Bldg. 5306
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010126
Status: Unutilized
Base Closure: No
Comment: 2406 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5307
Fort Benning, GA., Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010127
Status: Unutilized
Base Closure: No
Comment: 1216 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 5308
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010128
Status: Unutilized
Base Closure: No
Comment: 1680 sq. ft.; most recent use—storehouse; needs rehab.

Bldg. 5309
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010129
Status: Unutilized
Base Closure: No
Comment: 1829 sq. ft.; most recent use—clinic; needs rehab.

Bldg. 5310
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010130
Status: Unutilized
Base Closure: No
Comment: 3484 sq. ft.; most recent use—diagnostic center; needs rehab.

Bldg. 5311
Fort Benning, GA., Co: Muscogee 31905—

Federal Register Notice Date: 05/31/91
Property Number: 219010131
Status: Unutilized
Base Closure: No
Comment: 5767 sq. ft.; most recent use—post exchange (store); needs rehab.

Bldg. 5315
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010132
Status: Unutilized
Base Closure: No
Comment: 2930 sq. ft.; most recent use—hdqts. bldg.; needs rehab.

Bldg. 5316
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010133
Status: Unutilized
Base Closure: No
Comment: 1400 sq. ft.; most recent use—day room; needs rehab.

Bldg. 5320
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010134
Status: Unutilized
Base Closure: No
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldgs. 5366–5367
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010135–219010136
Status: Unutilized
Base Closure: No
Comment: 3759 sq. ft. each; most recent use—recreation bldg.; needs rehab.

Bldg. 5390
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010137
Status: Unutilized
Base Closure: No
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5404
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010138
Status: Unutilized
Base Closure: No
Comment: 2792 sq. ft.; most recent use—recreation bldg; needs rehab.

Bldg. 5328
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010139
Status: Unutilized
Base Closure: No
Comment: 2486 sq. ft.; most recent use—arms bldg; needs rehab.

Bldg. 5324
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010141
Status: Unutilized
Base Closure: No
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5323
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91

Property Number: 219010142
Status: Unutilized
Base Closure: No
Comment: 2525 sq. ft.; most recent use—
dining room; needs rehab.

Bldgs. 5322, 5321
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010143–219010144

Status: Unutilized
Base Closure: No
Comment: 2124 sq. ft. each; most recent use—
barracks; needs rehab.

Bldgs. 5360, 5361, 5363
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219010145–219010148,
219010148

Status: Unutilized
Base Closure: No
Comment: 3759 sq. ft. each; most recent use—
recreation bldg.; needs rehab.

Bldg. 5362
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010147
Status: Unutilized

Base Closure: No
Comment: 5559 sq. ft.; most recent use—
service club; needs rehab.

Bldg. 5404
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010149
Status: Unutilized

Base Closure: No
Comment: 2792 sq. ft.; most recent use—
recreation bldg.; needs rehab.

Bldg. 5365
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010150
Status: Unutilized

Base Closure: No
Comment: 3759 sq. ft.; most recent use—
recreation bldg.; needs rehab.

Bldg. 5392
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010151
Status: Unutilized

Base Closure: No
Comment: 2432 sq. ft.; most recent use—
dining room; needs rehab.

Bldg. 5391
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219010152
Status: Unutilized

Base Closure: No
Comment: 2432 sq. ft.; most recent use—
dining room; needs rehab.

Bldg. 4865
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011447
Status: Unutilized

Base Closure: No
Comment: 1098 sq. ft., 1 floor, most recent
use—storehouse; needs rehab.

Bldgs. 4867–4870
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—

Federal Register Notice Date: 05/31/91
Property Numbers: 219011448, 219011450–
219011452

Status: Unutilized
Base Closure: No
Comment: 1888 sq. ft. each, 2 floors; most
recent use—trainee barracks; needs rehab/
major construction to be habitable.

Bldg. 4871
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011453
Status: Unutilized

Base Closure: No
Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; needs major rehab/
construction to be made habitable.

Bldg. 4875
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011455
Status: Unutilized

Base Closure: No
Comment: 1888 sq. ft.; 2 floors; most recent
use—BN classrooms; major rehab/
construction required to be habitable.

Bldg. 4872
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011458
Status: Unutilized

Base Closure: No
Comment: 2183 sq. ft.; 1 floor; most recent
use—dining room; major construction
required to be made habitable.

Bldg. 4873
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011465
Status: Unutilized

Base Closure: No
Comment: 2183 sq. ft.; 1 floor; most recent
use—dining room; major construction
required to be made habitable.

Bldg. 4546
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011466
Status: Unutilized

Base Closure: No
Comment: 2818 sq. ft.; bldgs in poor
condition; major construction needed to be
made habitable.

Bldg. 4874
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011467
Status: Unutilized

Base Closure: No
Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; major construction
required to be made habitable.

Bldgs. 4877, 4878, 4878, 4880, 4902–4905
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Numbers: 219011468, 219011470,
219011472, 219011474,
219011476–219011479

Status: Unutilized
Base Closure: No
Comment: 1888 sq. ft. each; 2 floors; most
recent use—trainee barracks; major rehab/
construction required to be habitable.

Bldg. 4545
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011473
Status: Unutilized
Base Closure: No
Comment: 2818 sq. ft.; bldgs in poor
condition; major construction needed to be
made habitable.

Bldg. 4906
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011480
Status: Unutilized
Base Closure: No
Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; major construction
required to be made habitable.

Bldgs. 4907, 4908
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011481–219011482
Status: Unutilized
Base Closure: No
Comment: 2163 sq. ft. each; 1 floor; most
recent use—dining room facility; major
construction required to be made habitable.

Bldg. 4909
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011483
Status: Unutilized
Base Closure: No
Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; major construction
required to be made habitable.

Bldg. 4901
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011484
Status: Unutilized
Base Closure: No
Comment: 810 sq. ft.; 1 floor; most recent
use—other inst. st.; major rehab/
construction to be made habitable is
required.

Bldg. 4879
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011486
Status: Unutilized
Base Closure: No
Comment: 794 sq. ft.; 1 floor; most recent
use—arms building; major rehab/
construction required to be habitable.

Bldg. 4549
Fort Benning
Fort Benning, GA, Co: Muscogee 31905—
Federal Register Notice Date: 05/31/91
Property Number: 219011487
Status: Unutilized
Base Closure: No

Comment: 794 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4550

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011488

Status: Unutilized

Base Closure: No

Comment: 269 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4551

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011489

Status: Unutilized

Base Closure: No

Comment: 4,416 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4552

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011490

Status: Unutilized

Base Closure: No

Comment: 6,624 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4553

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011491

Status: Unutilized

Base Closure: No

Comment: 1,440 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4564

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011492

Status: Unutilized

Base Closure: No

Comment: 3,149 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4605, 4615

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011493-219011494

Status: Unutilized

Base Closure: No

Comment: 915 sq ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4642, 4643

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011495-219011496

Status: Unutilized

Base Closure: No

Comment: 3,068 sq ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4747, 4834

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011497-219011498

Status: Unutilized

Base Closure: No

Comment: 794 sq ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4835

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011499

Status: Unutilized

Base Closure: No

Comment: 1,501 sq ft., building in poor condition, major construction needed to be made habitable.

Bldgs. 4840, 4841

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011500-219011501

Status: Unutilized

Base Closure: No

Comment: 2,930 sq ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4843

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011502

Status: Unutilized

Base Closure: No

Comment: 1,776 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4844

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011503

Status: Unutilized

Base Closure: No

Comment: 3,776 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4848

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011504

Status: Unutilized

Base Closure: No

Comment: 1,455 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4847

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011505

Status: Unutilized

Base Closure: No

Comment: 900 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4848

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011506

Status: Unutilized

Base Closure: No

Comment: 804 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4851-4854, 4859-4862

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011507-219011510,

219011515-219011518

Status: Unutilized

Base Closure: No

Comment: 1,888 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4855

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011511

Status: Unutilized

Base Closure: No

Comment: 1,507 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4856

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011512

Status: Unutilized

Base Closure: No

Comment: 2,183 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4857

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011513

Status: Unutilized

Base Closure: No

Comment: 2,160 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4858

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011514

Status: Unutilized

Base Closure: No

Comment: 1,507 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4863

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011519

Status: Unutilized

Base Closure: No

Comment: 794 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4864

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011520

Status: Unutilized

Base Closure: No

Comment: 1,292 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4507

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011673

Status: Unutilized

Base Closure: No

Comment: 1888 sq. ft.; most recent use—barracks, needs substantial rehabilitation, 2 floors.

Bldgs. 4506, 4505

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011675-219011676

Status: Unutilized

Base Closure: No

Comment: 2145 sq. ft. each; most recent use—dining facilities, needs substantial rehabilitation, 1 floor.

Bldg. 4487

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011681

Status: Unutilized

Base Closure: No

Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4484

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011682

Status: Unutilized

Base Closure: No

Comment: 1098 sq. ft.; most recent use—storehouse; needs substantial rehabilitation; 1 floor.

Bldg. 4319

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011683

Status: Unutilized

Base Closure: No

Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldgs. 4481, 4479

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219011685-219011686

Status: Unutilized

Base Closure: No

Comment: 1507 sq. ft. each; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.

Bldg. 4045

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011688

Status: Unutilized

Base Closure: No

Comment: 2135 sq. ft.; most recent use—administration; needs substantial rehabilitation; 2 floors.

Bldg. 2414

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011692

Status: Unutilized

Base Closure: No

Comment: 1472 sq. ft.; most recent use—administrative; needs substantial rehabilitation; 1 floor.

Bldg. 3400

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011694

Status: Unutilized

Base Closure: No

Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 4042

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011696

Status: Unutilized

Base Closure: No

Comment: 2891 sq. ft.; most recent use—administrative; needs substantial rehabilitation; 1 floor.

Bldg. 2285

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011704

Status: Unutilized

Base Closure: No

Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4092

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011709

Status: Unutilized

Base Closure: No

Comment: 336 sq. ft.; most recent use—flammable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011710

Status: Unutilized

Base Closure: No

Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Bldg. 4043

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011711

Status: Unutilized

Base Closure: No

Comment: 2135 sq. ft.; most recent use—administrative; needs substantial rehabilitation; 2 floors.

Bldg. 4044

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219011712

Status: Unutilized

Base Closure: No

Comment: 4044 sq. ft.; most recent use—administrative; needs substantial rehabilitation; 2 floors.

Bldg. 5266

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012364

Status: Unutilized

Base Closure: No

Comment: 1400 sq. ft.; one story; most recent use—day room; in poor condition; needs major rehab.

Bldgs. 5267-5275, 5277-5283

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219012365, 219012367-

219012370, 219012372-219012375,

219012378-219012379, 219012381-219012383,

219012385-219012386

Status: Unutilized

Base Closure: No

Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major repair.

Bldg. 4936

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012388

Status: Unutilized

Base Closure: No

Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4937

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012389

Status: Unutilized

Base Closure: No

Comment: 2183 sq. ft.; 1 story; most recent use—dining room; poor condition; needs major rehab.

Bldg. 4938

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012391

Status: Unutilized

Base Closure: No

Comment: 1320 sq. ft.; one story; most recent use—administrative; poor condition; needs major rehab.

Bldg. 4939

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012392

Status: Unutilized

Base Closure: No

Comment: 1800 sq. ft.; one story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4951

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012394

Status: Unutilized

Base Closure: No

Comment: 2192 sq. ft.; one story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4953

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012395

Status: Unutilized

Base Closure: No

Comment: 794 sq. ft.; 1 story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4954

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012397

Status: Unutilized

Base Closure: No

Comment: 1888 sq. ft.; 2 story; most recent use—custody fac.; poor condition; needs major rehab.

Bldg. 4926

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012398

Status: Unutilized

Base Closure: No

Comment: 1888 sq. ft.; 2 story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4925

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012400

Status: Unutilized

Base Closure: No

Comment: 1507 sq. ft.; one story; most recent use—classroom; poor condition; needs major rehab.

Bldg. 4924

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012401

Status: Unutilized

Base Closure: No

Comment: 2183 sq. ft.; one story; most recent use—dining room; poor condition; needs major rehab.

Bldgs. 4919, 4918, 4929, 4931, 4912, 4933, 4935

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219012403-219012404, 219012406, 219012410, 219012417-219012418, 219012422

Status: Unutilized

Base Closure: No

Comment: 1888 sq. ft. each; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldgs. 4917, 4930

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219012405, 219012408

Status: Unutilized

Base Closure: No

Comment: 810 sq. ft. each; 1 story; most recent use—arms building; poor condition; need major rehab.

Bldg. 5287

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012411

Status: Unutilized

Base Closure: No

Comment: 1216 sq. ft.; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4934

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012419

Status: Unutilized

Base Closure: No

Comment: 1507 sq. ft.; one story; most recent use—dayroom; needs major rehab.

Bldg. 4932

Fort Benning

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219012421

Status: Unutilized

Base Closure: No

Comment: 794 sq. ft.; 1 story; most recent use—storehouse; needs rehab.

Bldgs. 1235, 1236

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219014887-219014888

Status: Unutilized

Base Closure: No

Comment: 9367 sq. ft. each; 1 story buildings; needs rehab; most recent use—General Storehouse.

Bldg. 1251

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014889

Status: Unutilized

Base Closure: No

Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 2393

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014902

Status: Unutilized

Base Closure: No

Comment: 820 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle Maintenance; potential use—storage.

Bldg. 2397

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014903

Status: Unutilized

Base Closure: No

Comment: 420 sq. ft.; 1 story building; needs rehab; most recent use—Dispatch Building; potential use—storage.

Bldg. 2416

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014904

Status: Unutilized

Base Closure: No

Comment: 1840 sq. ft.; 1 story building; needs rehab; most recent use—administrative.

Bldg. 2591

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014906

Status: Unutilized

Base Closure: No

Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldgs. 3005-3010

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Numbers: 219014907-219014912

Status: Unutilized

Base Closure: No

Comment: 7688 sq. ft. each; 2 story buildings; need rehab; most recent use—Barracks.

Bldg. 3080

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014913

Status: Unutilized

Base Closure: No

Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 3081

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014914

Status: Unutilized

Base Closure: No

Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4022

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014915

Status: Unutilized

Base Closure: No

Comment: 1712 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4491

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014916

Status: Unutilized

Base Closure: No

Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4500

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014917

Status: Unutilized

Base Closure: No

Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—Arms Building.

Bldg. 4511

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014918

Status: Unutilized

Base Closure: No

Comment: 4720 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 4633

Fort Benning, GA, Co: Muscogee 31905-

Federal Register Notice Date: 05/31/91

Property Number: 219014919

Status: Unutilized

Base Closure: No

Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4634

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219014920
Status: Unutilized
Base Closure: No
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldgs. 4646, 4690

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Numbers: 219014921, 219014923
Status: Unutilized
Base Closure: No
Comment: 1372 sq. ft. each; 1 story buildings; needs rehab; most recent use—General Storehouse.

Bldg. 4649

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219014922
Status: Unutilized
Base Closure: No
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 4751

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219014924
Status: Unutilized
Base Closure: No
Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—Recreation building.

Bldg. 4752

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219014925
Status: Unutilized
Base Closure: No
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 5400

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219014926
Status: Unutilized
Base Closure: No
Comment: 2750 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 5401

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219014927
Status: Unutilized
Base Closure: No
Comment: 2956 sq. ft.; 1 story building; needs rehab; most recent use—Dental Clinic.

Bldg. 5403

Fort Benning, GA, Co: Muscogee 31905-
Federal Register Notice Date: 05/31/91
Property Number: 219030268
Status: Unutilized
Base Closure: No
Comment: 7850 sq. ft.; 1 story; needs major rehab; most recent use—exchange branch.

Bldg. 39722

Fort Gordon
 Off 8th street
 Fort Gordon, GA Co Richmond 30905-

Federal Register Notice Date: 05/31/91

Property Number: 219012353
Status: Underutilized
Base Closure: No
Comment: 1197 sq. ft.; 1 story wood; possible asbestos; extensive rot and termite damage; Building for off-site use only.

Bldgs. 20701, 20703, 20709, 34402, 34404, 35401
 Fort Gordon
 Augusta, GA, Co: Richmond 30905-
Location: Located on Barnes Avenue and 20th street.

Federal Register Notice Date: 05/31/91

Property Numbers: 219014281-219014282, 219014284-219014287
Status: Unutilized
Base Closure: No
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 20705

Fort Gordon
 Augusta, GA, Co: Richmond 30905-
Location: Located on 20th street
Federal Register Notice Date: 05/31/91
Property Number: 219014283
Status: Unutilized
Base Closure: No
Comment: 2352 sq. ft.; 1 story wood structure; needs major rehab; off-site use only.

Bldg. 36701

Fort Gordon
 Augusta, GA, Co: Richmond 30905-
Location: Located on Chamberlain Avenue at Center Golf Course.
Federal Register Notice Date: 05/31/91
Property Number: 219014288
Status: Underutilized
Base Closure: No
Comment: 196 sq. ft.; 1 story brick structure; off-site use only.

Illinois*Suitable/Available Land (by Agency)***Army**

Arlington USAR Center
 1515 W. Central Road
 Arlington Height, IL, Co: Cook 60005-
Federal Register Notice Date: 05/31/91
Property Number: 219013921
Status: Underutilized
Base Closure: No
Comment: 6 acres; access subject to negotiation.

Indiana*Suitable/Available Buildings (by Agency)***Army**

Bldg. 719-1
 Indiana Army Ammunition Plant
 Charlestown, IN, Co: Clark
Federal Register Notice Date: 05/31/91
Property Number: 219013578
Status: Underutilized
Base Closure: No
Comment: 5000 sq. ft.; 1 story brick frame; secured area with alternate access; most recent use—administration.

Bldg. 703-1C

Indiana Army Ammunition Plant
 Charlestown, IN, Co: Clark
Location: Gate 22 off Highway 22
Federal Register Notice Date: 05/31/91
Property Number: 219013761
Status: Underutilized

Base Closure: No

Comment: 4000 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.

Bldg. 1011 (Portion of)

Indiana Army Ammunition Plant
 End of 3rd Street
 Charlestown, IN, Co: Clark
Location: East of State Highway 62 at Gate 3
Federal Register Notice Date: 05/31/91
Property Number: 219013762
Status: Underutilized
Base Closure: No
Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.

Bldg. 1001 (Portion of)

Indiana Army Ammunition Plant
 Charlestown, IN, Co: Clark
Location: South end of 3rd Street, East of Highway 62 at entrance gate
Federal Register Notice Date: 05/31/91
Property Number: 219013763
Status: Underutilized
Base Closure: No
Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 720

Indiana Army Ammunition Plant
 Charlestown, IN, Co: Clark
Federal Register Notice Date: 05/31/91
Property Number: 219013765
Status: Underutilized
Base Closure: No
Comment: 5000 sq. ft.; 2 story brick frame; possible asbestos; secured area with alternate access; most recent use—administrative.

Kansas*Suitable/Available Buildings (by Agency)***Army**

Bldgs. T-1383, T-2080, T-2324
 Fort Riley
 Fort Riley, KS, Co: Geary 66442-
Federal Register Notice Date: 05/31/91
Property Numbers: 219013774-219013775, 219013777
Status: Unutilized
Base Closure: No
Comment: 3422 sq. ft. to 3864 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

*Suitable Land (by Agency)***Parcel 1**

Fort Leavenworth
 Combined Arms Center
 Fort Leavenworth, KS, Co: Leavenworth 66027-5020
Federal Register Notice Date: 05/31/91
Property Number: 219012333
Status: Underutilized
Base Closure: No
Comment: 14.4+ acres.

Parcel 3

Fort Leavenworth
 Combined Arms Center
 Fort Leavenworth, KS, Co: Leavenworth 66027-5020
Federal Register Notice Date: 05/31/91

Property Number: 219012336
Status: Underutilized
Base Closure: No
Comment: 261+ acres; heavily forested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4

Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth
66027-5020

Federal Register Notice Date: 05/31/91
Property Number: 219012339
Status: Underutilized
Base Closure: No
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.

Parcel 6

Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth
66027-5020
Location:
Extreme north east corner of installation in Flood Plain of the Missouri River.

Federal Register Notice Date: 05/31/91
Property Number: 219012340
Status: Underutilized
Base Closure: No
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F

Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth
66027-5020

Federal Register Notice Date: 05/31/91
Property Number: 219012552
Status: Unutilized
Base Closure: No
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Suitable Buildings (by Agency)

Bldg. T-629
Fort Leavenworth—NCO Club Building
Combined Arms Command
Leavenworth, KS, Co: Leavenworth 66027-
Federal Register Notice Date: 05/31/91
Property Number: 219110148
Status: Unutilized
Base Closure: No
Comment: 17549 gross sq. ft.; 2 story wood frame; needs rehab; termite infested; possible asbestos; scheduled to be vacated Summer 1991; off-site use only.

Kentucky

Suitable/Available Buildings (by Agency)

Army

Bldg. 5956
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219010958
Status: Unutilized
Base Closure: No
Comment: 2179 sq. ft.; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop; Organizational.

Bldg. 104

Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219010937
Status: Underutilized
Base Closure: No
Comment: 15066 sq. ft.; two story; possible asbestos; most recent use—barracks.
Bldgs. 126, 141, 147, 149, 161, 165, 167, 169, 143
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Numbers: 219010938, 219010940-219010946, 219013139
Status: Underutilized
Base Closure: No
Comment: 12576 sq. ft. each; two story; possible asbestos; most recent use—storage.

Bldg. 122
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219010939
Status: Underutilized
Base Closure: No
Comment: 1488 sq. ft.; two story; possible asbestos; most recent use—storage and administration.

Bldg. 2244
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219010948
Status: Underutilized
Base Closure: No
Comment: 4248 sq. ft.; possible asbestos; two story; most recent use—storage.

Bldg. 3110
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219010950
Status: Unutilized
Base Closure: No
Comment: 1000 sq. ft.; one story; possible asbestos; most recent use—administration.

Bldgs. 5954, 5958, 5960
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Numbers: 219010953, 219010958, 219010961
Status: Unutilized
Base Closure: No
Comment: 2179 sq. ft. each; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop, Organizational.

Bldg. 6605
Fort Campbell
Fort Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219010968
Status: Underutilized
Base Closure: No
Comment: 1968 sq. ft.; one story; most recent use—storage.

Bldg. 3148
Ft. Campbell
Ft. Campbell, KY, Co: Christian 42223-
Federal Register Notice Date: 05/31/91
Property Number: 219013223
Status: Underutilized
Base Closure: No

Comment: 2200 sq. ft.; 1 story; possible asbestos; selected periods used for military/training exercises.

Louisiana

Suitable/Available Buildings (by Agency)

Army

Bldg. 417
8th Street
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Number: 219012682
Status: Unutilized
Base Closure: No
Comment: 7670 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—BOQ.

Bldg. 7124

Reserve Road
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Number: 219012688
Status: Unutilized
Base Closure: No
Comment: 2500 sq. ft.; 1 story temporary wood frame; most recent use—recreation room.

Bldgs. 7129-7132, 7134, 7135
Reserve Road
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219012689-219012692, 219012694-219012695

Status: Unutilized
Base Closure: No
Comment: 4957 sq. ft. each; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7143

"D" Avenue
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Number: 219012698
Status: Unutilized
Base Closure: No
Comment: 2250 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. T-7157

Guard Road
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Number: 219012698
Status: Unutilized
Base Closure: No
Comment: 4357 sq. ft.; 2 story; possible asbestos; most recent use—barracks.

Bldgs. 7161-7163, 7166-7168

"D" Avenue
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219012699-219012704
Status: Unutilized
Base Closure: No
Comment: 4957 sq. ft. each; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldgs. 7183, 7184, 7187

"D" Avenue
Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219012705-219012707
Status: Unutilized

Base Closure: No
 Comment: 2250 sq. ft. to 2630 sq. ft. each; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7304
 Armored Road
 Fort Polk, LA, Co: Vernon 71459-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219012712
 Status: Unutilized
 Base Closure: No
 Comment: 6103 sq. ft.; 2 story temporary wood frame; most recent use—storage.

Bldg. 7430
 1st Street
 Fort Polk, LA, Co: Vernon 71459-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219012715
 Status: Unutilized
 Base Closure: No
 Comment: 4987 sq. ft.; 2 story temporary frame; most recent use—storage.

Bldg. 8026
 10th Street
 Fort Polk, LA, Co: Vernon 71459-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219012724
 Status: Underutilized
 Base Closure: No
 Comment: 2580 sq. ft.; 1 story temporary wood frame; most recent use—storage.

Bldg. 8226
 12th Street
 Fort Polk, LA, Co: Vernon 71459-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219012729
 Status: Unutilized
 Base Closure: No
 Comment: 2050 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7175
 Fort Polk
 3rd Street
 Fort Polk, LA, Co: Vernon 71459-
 Federal Register Notice Date: 05/31/91
 Property Number: 219013770
 Status: Excess
 Base Closure: No
 Comment: 7527 sq. ft.; temporary wood structure; scheduled for demolition; seriously deteriorated.

Massachusetts

Suitable/Available Buildings (by Agency)

Army

Bldg. T-2732
 Fort Devens
 Fort Devens, MA, Co: Middlesex/Worcester 01433-
 Federal Register Notice Date: 05/31/91
 Property Number: 219012343
 Status: Unutilized
 Base Closure: No
 Comment: 6351 sq. ft., wood, two stories, most recent use—housing.

Bldg. T-2281
 Fort Devens
 Fort Devens, MA, Co: Middlesex/Worcester 01433-
 Federal Register Notice Date: 05/31/91
 Property Number: 219012344
 Status: Unutilized
 Base Closure: No

Comment: 6351 sq. ft., wood structure, 2 floors, most recent use—housing.

Bldg. T-201
 Fort Devens
 Fort Devens, MA, Co: Middlesex/Worcester 01433-
 Federal Register Notice Date: 05/31/91
 Property Number: 219012363
 Status: Unutilized
 Base Closure: No
 Comment: 1000 sq. ft., wood structure—needs rehab, no sanitary facilities, most recent use—company admin/supply.

Maryland

Suitable/Available Buildings (by Agency)

Army

Bldg. 533
 Fort George Meade
 Fort Meade, MD, Co: Ann Arundel 20755-5115
 Federal Register Notice Date: 05/31/91
 Property Number: 219040001
 Status: Unutilized
 Base Closure: No
 Comment: 6525 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Bldg. 523
 Fort George Meade
 Fort Meade, MD, Co: Ann Arundel 20755-5115
 Federal Register Notice Date: 05/31/91
 Property Number: 219040002
 Status: Unutilized
 Base Closure: No
 Comment: 4307 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Bldg. 6926
 Taylor Avenue
 Fort Meade, MD, Co: Anne Arundel 21061-
 Federal Register Notice Date: 05/31/91
 Property Number: 219013605
 Status: Unutilized
 Base Closure: No
 Comment: 1275 sq. ft.; 1 story frame with basement (216 sq. ft.); possible asbestos; termite damage.

Bldg. 157
 Fort Meade
 Chisholm Street
 Fort Meade, MD, Co: Anne Arundel 20755-5115
 Federal Register Notice Date: 05/31/91
 Property Number: 219013606
 Status: Unutilized
 Base Closure: No
 Comment: 4720 sq. ft.; 2 story frame bks.; possible asbestos; needs major rehab.

Bldg. 2296
 Fort Meade
 4th Street
 Fort Meade, MD, Co: Anne Arundel 20755-5115
 Federal Register Notice Date: 05/31/91
 Property Number: 219013607
 Status: Unutilized
 Base Closure: No
 Comment: 2740 sq. ft.; 1 story frame warehouse; possible asbestos; potential use—storage.

Bldg. 832
 Fort Meade

15th Street
 Fort Meade, MD, Co: Anne Arundel 21061-
 Federal Register Notice Date: 05/31/91
 Property Number: 219013608
 Status: Unutilized
 Base Closure: No
 Comment: 2208 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab.

Bldg. 841
 Fort Meade
 15th Street
 Fort Meade, MD, Co: Anne Arundel 21061-
 Federal Register Notice Date: 05/31/91
 Property Number: 219013610
 Status: Unutilized
 Base Closure: No
 Comment: 3537 sq. ft.; 1 story with balcony; possible asbestos; no furnace; needs major rehab.

Bldg. 143
 Fort Meade
 1st and Saxton Streets
 Fort Meade, MD, Co: Anne Arundel 21061-
 Federal Register Notice Date: 05/31/91
 Property Number: 219013611
 Status: Unutilized
 Base Closure: No
 Comment: 7670 sq. ft.; 2 story wood frame; possible asbestos; needs rehab; no furnace.

Bldg. 2250A
 Fort Meade
 Fort Meade, MD, Co: Anne Arundel 20755-5115
 Federal Register Notice Date: 05/31/91
 Property Number: 219013612
 Status: Unutilized
 Base Closure: No
 Comment: 240 sq. ft.; 1 story metal/wood shed; structurally unsound; potential use—storage.

Bldg. 197
 Fort George G. Meade
 1st and Chisholm Streets
 Fort Meade, MD, Co: Anne Arundel 20755-
 Federal Register Notice Date: 05/31/91
 Property Number: 219014848
 Status: Unutilized
 Base Closure: No
 Comment: 7670 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 508
 Fort George G. Meade
 Llewellyn Street
 Fort Meade, MD, Co: Anne Arundel 20755-
 Federal Register Notice Date: 05/31/91
 Property Number: 219014849
 Status: Unutilized
 Base Closure: No
 Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; most recent use—storage; secured area with alternate access; possible asbestos.

Bldg. 4461
 Fort George G. Meade
 Lewellyn Avenue
 Fort Meade, MD, Co: Anne Arundel 20755-
 Federal Register Notice Date: 05/31/91
 Property Number: 219014850
 Status: Unutilized
 Base Closure: No
 Comment: 16594 sq. ft.; 2 story concrete block; needs rehab; secured area with

alternate access; possible asbestos; most recent use—branch exchange.

Bldg. 3187

Fort George G. Meade
Mac Arthur Road
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014851
Status: Unutilized
Base Closure: No
Comment: 1914 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 6599

Fort George G. Meade
Zimborski Road
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014852
Status: Unutilized
Base Closure: No
Comment: 4173 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access.

Bldg. 378

Fort George G. Meade
Behind Bldg. 368 on 5 1/2 Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014853
Status: Underutilized
Base Closure: No
Comment: 1144 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 373

Fort George G. Meade
Behind Bldg. 372 on Chamberlain Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014854
Status: Underutilized
Base Closure: No
Comment: 1144 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 2815

Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014855
Status: Unutilized
Base Closure: No
Comment: 2208 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 267

Fort George G. Meade
3rd Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014856
Status: Unutilized
Base Closure: No
Comment: 2208 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. T-8357

Fort George G. Meade
Hodges Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91

Property Number: 219014857

Status: Unutilized

Base Closure: No

Comment: 2360 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 6205

Fort George G. Meade
Rock Avenue
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014858
Status: Unutilized
Base Closure: No
Comment: 2441 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 6212

Fort George G. Meade
Rock Avenue
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014859
Status: Unutilized
Base Closure: No
Comment: 2220 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; most recent use—storage.

Bldg. 2816

Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014860
Status: Unutilized
Base Closure: No
Comment: 1676 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 2817

Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014861
Status: Underutilized
Base Closure: No
Comment: 3663 sq. ft.; 1 story wood frame;
possible asbestos; secured area with
alternate access; most recent use—storage.

Bldg. T-356

Fort George G. Meade
5 1/2 Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014862
Status: Unutilized
Base Closure: No
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos; most recent
use—storage.

Bldg. 2229

Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014863
Status: Unutilized
Base Closure: No
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 649

Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014864
Status: Underutilized
Base Closure: No
Comment: 2594 sq. ft.; 1 story wood frame;
possible asbestos; secured area with
alternate access; needs rehab; most recent
use—storage.

Bldg. 583

Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014865
Status: Unutilized
Base Closure: No
Comment: 3245 sq. ft.; 1 story wood frame;
needs rehab; possible asbestos; secured
area with alternate access.

Bldg. 543

Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel 20755-
Federal Register Notice Date: 05/31/91
Property Number: 219014866
Status: Unutilized
Base Closure: No
Comment: 4720 sq. ft.; 2 story wood frame;
possible asbestos; needs rehab; secured
area with alternate access.

Bldg. 509

Fort George G. Meade
Llewellyn Street
Fort Meade, MD, Co: Anne Arundel 20755-
5115
Federal Register Notice Date: 05/31/91
Property Number: 219014867
Status: Unutilized
Base Closure: No
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; possible asbestos; secured
area with alternate access; most recent
use—storage.

Bldg. 369

Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-
5115
Federal Register Notice Date: 05/31/91
Property Number: 219014868
Status: Unutilized
Base Closure: No
Comment: 2208 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldgs. 364, 357, 353

Fort George G. Meade
5 1/2 Street
Fort Meade, MD, Co: Anne Arundel 20755-
5115
Federal Register Notice Date: 05/31/91
Property Numbers: 219014869, 219014871,
219014872
Status: Unutilized
Base Closure: No
Comment: 4720 sq. ft. each; 2 story wood
frame; needs rehab; secured area with
alternate access; possible asbestos; most
recent use—storage.

Bldg. T-359

Fort George G. Meade
5½ and Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014870
Status: Unutilized
Base Closure: No
Comment: 2208 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 269
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014873
Status: Underutilized
Base Closure: No
Comment: 3537 sq. ft.; 1 story wood frame; possible asbestos; needs rehab; secured area with alternate access; most recent use—storage.

Bldgs. 2408, 2413, 2417, 2418
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Numbers: 219014874–219014877
Status: Unutilized
Base Closure: No
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2419
Fort George G. Meade
Behind Bldg 2427—Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014878
Status: Underutilized
Base Closure: No
Comment: 2441 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access; most recent use—arms room.

Bldg. 2425
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014879
Status: Unutilized
Base Closure: No
Comment: 1843 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2426
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014880
Status: Unutilized
Base Closure: No
Comment: 7670 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2427
Fort George G. Meade

Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014881
Status: Unutilized
Base Closure: No
Comment: 8150 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2840
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014882
Status: Unutilized
Base Closure: No
Comment: 2250 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access.

Bldg. 2847
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219014883
Status: Unutilized
Base Closure: No
Comment: 3663 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; most recent use—gym.

Bldg. 6599
Ft. George G. Meade
6599 Zimborski Road
Ft. Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219030002
Status: Unutilized
Base Closure: No
Comment: 4173 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; most recent use—PX exchange facility.

Bldg. 3187
Ft. George G. Meade
3187 MacArthur Road
Ft. Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219030003
Status: Unutilized
Base Closure: No
Comment: 1914 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; most recent use—storage.

Bldg. 2815
Ft. George G. Meade
2815 Chisholm Street
Ft. Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219030004
Status: Unutilized
Base Closure: No
Comment: 2208 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access; most recent use—storage.

Bldg. 2428
Ft. George G. Meade
2428 Ernie Pyle Street
Ft. Meade, MD, Co: Anne Arundel 20755-5115

Federal Register Notice Date: 05/31/91
Property Number: 219030005
Status: Unutilized

Base Closure: No
Comment: 1 story wood frame; needs major rehab; possible asbestos; secured area with alternate access; potential utility; most recent use—storage.

Bldg. 2030
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91

Property Number: 219011418
Status: Unutilized
Base Closure: No
Comment: 3302 sq. ft., one story, possible asbestos.

Bldg. 2174
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91

Property Number: 219011419
Status: Unutilized
Base Closure: No
Comment: 3540 sq. ft.; poor condition; utilities disconnected; one story; possible asbestos.

Bldg. 3243
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91

Property Number: 219011420
Status: Unutilized
Base Closure: No
Comment: 11800 sq. ft., possible asbestos, two story, potential utilities.

Bldg. 3244
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91

Property Number: 219011421
Status: Unutilized
Base Closure: No
Comment: 3302 sq. ft., one story, possible asbestos, potential utilities.

Bldgs. 3621–3624, 3626–3629, 3634–3635, 3637, 3639–3642
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001

Federal Register Notice Date: 05/31/91
Property Numbers: 219011422–219011425, 219011427–219011430, 219011435–219011437, 219011439–219011442
Status: Unutilized

Base Closure: No
Comment: 4720 sq. ft. each, two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3625
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91

Property Number: 219011426
Status: Unutilized
Base Closure: No
Comment: 2031 sq. ft., one story, utilities disconnected, poor condition, possible asbestos.

Bldg. 3630
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91

Property Number: 219011431
Status: Unutilized
Base Closure: No
Comment: 1750 sq. ft., one story, possible asbestos, poor condition, utilities disconnected.

Bldgs. 3631, 3632
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Numbers: 219011432-219011433
Status: Unutilized
Base Closure: No
Comment: 1513 sq. ft. each, one story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3633
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Number: 219011434
Status: Unutilized
Base Closure: No
Comment: 1754 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3638
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Number: 219011438
Status: Unutilized
Base Closure: No
Comment: 18880 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3643
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Number: 21901 443
Status: Unutilized
Base Closure: No
Comment: 1750 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldgs. 3644, 3645
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Numbers: 219011444-219011445
Status: Unutilized
Base Closure: No
Comment: 1541 sq. ft. each, one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3646
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Number: 219011446
Status: Unutilized
Base Closure: No
Comment: 1750 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. E4736
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012621
Status: Unutilized
Base Closure: No
Comment: Possible contamination—under study; potential utilities.

Bldg. 4723
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91

Property Number: 219012643
Status: Unutilized
Base Closure: No
Comment: 3250 sq. ft.; potential utilities; poor condition; possible asbestos.

Bldg. 5104
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012644
Status: Unutilized
Base Closure: No
Comment: 624 sq. ft.; trailer; potential utilities; poor condition.

Bldg. E5878
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Numbers: 219012652
Status: Unutilized
Base Closure: No
Comment: 213 sq. ft.; structural deficiencies; possible asbestos; and contamination.

Bldg. E5879
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012653
Status: Unutilized
Base Closure: No
Comment: 213 sq. ft.; possible asbestos and contamination; no utilities; most recent use—igloo storage.

Bldg. E5974
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012654
Status: Unutilized
Base Closure: No
Comment: 272 sq. ft.; possible asbestos and contamination; most recent use—headquarters building.

Bldg. 10302
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012668
Status: Unutilized
Base Closure: No
Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.

Bldg. E5978
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012667
Status: Unutilized
Base Closure: No
Comment: 256 sq. ft.; 1 story; structural deficiencies; possible asbestos and contamination; most recent use—general storehouse.

Bldg. E5975
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford 21010-5425
Federal Register Notice Date: 05/31/91
Property Number: 219012677

Status: Unutilized
Base Closure: No
Comment: 650 sq. ft.; possible contamination; structural deficiencies most recent use—training exercises/chemicals and explosives; potential use—storage.

Bldg. 2173
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford 21005-5001
Federal Register Notice Date: 05/31/91
Property Number: 219013772
Status: Unutilized
Base Closure: No
Comment: 3540 sq. ft.; 1 story temporary frame; possible asbestos; most recent use—barracks.

Bldg. 101
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring, MD, Co: Montgomery 20910
Federal Register Notice Date: 05/31/91
Property Number: 219012678
Status: Underutilized
Base Closure: No
Comment: 18438 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 104
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring, MD, Co: Montgomery 20910
Federal Register Notice Date: 05/31/91
Property Number: 219012679
Status: Underutilized
Base Closure: No
Comment: 12495 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 107
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring, MD, Co: Montgomery 20910
Federal Register Notice Date: 05/31/91
Property Number: 219012680
Status: Unutilized
Base Closure: No
Comment: 4107 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Bldg. 120
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring, MD, Co: Montgomery 20910
Federal Register Notice Date: 05/31/91
Property Number: 219012681
Status: Underutilized
Base Closure: No
Comment: 2442 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Maine

Suitable/Available Buildings (by Agency)

Navy

Parcel No. 3
Naval Air Station Topsham Annex
Topsham, ME, Co: Sagadahoc 04086
Federal Register Notice Date: 05/31/91
Property Number: 779120001
Status: Excess
Base Closure: No
Comment: 1900 sq. ft. abandoned storage facility, poor condition on 4.31 acres.

Minnesota*Suitable/Available Buildings (by Agency)***Army**

Le Sueur USAR Center
620 Turill Street

Le Sueur, MN, Co: Le Sueur 56058

Federal Register Notice Date: 05/31/91

Property Number: 219013558

Status: Underutilized

Base Closure: No

Comment: 4316/1325 sq. ft.; 1 story; most recent use—storage.

Nevada*Suitable/Available Land (by Agency)***Army****Parcel A**

Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral 89415-

Location:

At foot of Eastern slope of Mount Grant in
Wassuk Range & S.W. edge of Walker Lane

Federal Register Notice Date: 05/31/91

Property Number: 219012049

Status: Unutilized

Base Closure: No

Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B

Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral 89415-

Location:

At foot of Eastern slope of Mount Grant in
Wassuk Range & S.W. edge of Walker Lane

Federal Register Notice Date: 05/31/91

Property Number: 219012056

Status: Unutilized

Base Closure: No

Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C

Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral 89415-

Location:

South-southwest of Hawthorne along
HWAAP's South Magazine Area at
Western edge of State Route 359

Federal Register Notice Date: 05/31/91

Property Number: 219012057

Status: Unutilized

Base Closure: No

Comment: 85 acres; road & utility easements; no utility hookup.

Parcel D

Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral 89415-

South-southwest of Hawthorne along
HWAAP's South Magazine Area at
western edge of State Route 359

Federal Register Notice Date: 05/31/91

Property Number: 219012058

Status: Unutilized

Base Closure: No

Comment: 955 acres; road & utility easements; no utility hookup.

Suitable/Available Buildings (by Agency)

Bldgs. 00425-00449

Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral 89415-

Location: Schweer Drive

Federal Register Notice Date: 05/31/91

Property Numbers: 219011946-219011952,
219011954, 219011956,

219011959, 219011961, 219011964, 219011968,

219011970, 219011974, 219011976-219011978,

219011980, 219011982, 219011984, 219011987,

219011990, 219011994, 219011996

Status: Unutilized

Base Closure: No

Comment: 1310-1640 sq. ft. each, one floor residential, semi/wood construction, good condition.

New York*Suitable/Available Buildings (by Agency)***Army****Bldg. 627**

U.S. Military Academy—West Point
Pitcher Road, North Dock

Highland, NY, Co: Orange 10996-1562

Federal Register Notice Date: 05/31/91

Property Number: 219030185

Status: Unutilized

Base Closure: No

Comment: 23185 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; most recent use—storage warehouse; scheduled to be vacant 9/1/90.

Bldg. 503

Fort Totten

Ordnance Road

Bayside, NY, Co: Queens 11357

Federal Register Notice Date: 05/31/91

Property Number: 219012564

Status: Unutilized

Base Closure: No

Comment: 510 sq. ft., 1 floor, most recent use—storage, needs major rehab/no utilities.

Bldg. 323

Fort Totten

Story Avenue

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012567

Status: Unutilized

Base Closure: No

Comment: 30000 sq. ft., 3 floors, most recent use—barracks & mess facility, needs major rehab.

Bldg. 304

Fort Totten

Shore Road

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012570

Status: Unutilized

Base Closure: No

Comment: 9610 sq. ft., 3 floors, most recent use—hospital, needs major rehab/utilities disconnected.

Bldg. 211

Fort Totten

211 Totten Avenue

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012573

Status: Unutilized

Base Closure: No

Comment: 6329 sq. ft., 3 floors, most recent use—family housing, needs major rehab, utilities disconnected.

Bldg. 332

Fort Totten

Theater Road

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012578

Status: Unutilized

Base Closure: No

Comment: 6288 sq. ft., 1 floor, most recent use—theater w/stage, needs major rehab, utilities disconnected.

Bldg. 504

Fort Totten

Ordnance Road

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012580

Status: Unutilized

Base Closure: No

Comment: 490 sq. ft., 1 floor, most recent use—storage, no utilities, needs major rehab.

Bldg. 322

Fort Totten

322 Story Avenue

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012583

Status: Unutilized

Base Closure: No

Comment: 30000 sq. ft., 3 floors, most recent use—barracks, mess & administration, utilities disconnected, needs rehab.

Bldg. 326

Fort Totten

326 Pratt Avenue

Bayside, NY, Co: Queens 11359

Federal Register Notice Date: 05/31/91

Property Number: 219012586

Status: Unutilized

Base Closure: No

Comment: 6000 sq. ft., 2 floors, most recent use—storage, offices & residential, utilities disconnected/needs rehab.

Oklahoma*Suitable/Available Land (by Agency)***Army****Parcel No. 8**

Fort Gibson Lake

Section 22

(See County), OK, Co: Cherokee

Federal Register Notice Date: 05/31/91

Property Number: 219013801

Status: Underutilized

Base Closure: No

Comment: 5 acres; bushy and timbered; subject to grazing lease.

Parcel No. 9

Fort Gibson Lake

Section 16

(See County), OK, Co: Cherokee

Federal Register Notice Date: 05/31/91

Property Number: 219013802

Status: Underutilized

Base Closure: No

Comment: 7.5 acres; rolling; relatively open; subject to grazing lease; most recent use—recreation.

Parcel No. 10

Fort Gibson Lake

Section 16

(See County), OK, Co: Cherokee

Federal Register Notice Date: 05/31/91

Property Number: 219013803
Status: Underutilized
Base Closure: No
Comment: 36 acres; rolling; relatively open; subject to grazing lease; most recent use—recreation.

Parcel No. 11
Fort Gibson Lake
Section 16
(See County), OK, Co: Cherokee
Federal Register Notice Date: 05/31/91
Property Number: 219013804
Status: Underutilized
Base Closure: No
Comment: 60.34 acres; semi open with trees; most recent use—recreation.

Parcel No. 12
Fort Gibson Lake
Section 16
(See County), OK, Co: Cherokee
Federal Register Notice Date: 05/31/91
Property Number: 219013805
Status: Underutilized
Base Closure: No
Comment: 6 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 13
Fort Gibson Lake
Section 21
(See County), OK, Co: Cherokee
Federal Register Notice Date: 05/31/91
Property Number: 219013806
Status: Underutilized
Base Closure: No
Comment: 7 acres; flat and open; subject to grazing lease; most recent use—recreation.

Suitable Buildings (by Agency)

Bldg. T-931
Fort Sill
931 Fort Sill Blvd.
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011239
Status: Unutilized
Base Closure: No
Comment: 5174 sq. ft.; structurally unsound; wood frame; 1 floor; asbestos; WWII Bldg.

Bldg. T-1471
Fort Sill
1471 Bateman Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011241
Status: Unutilized
Base Closure: No
Comment: 468 sq. ft.; structurally unsound; wood frame; 1 floor; WWII Bldg.

Bldg. T-2530
Fort Sill
2530 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011246
Status: Unutilized
Base Closure: No
Comment: 3988 sq. ft.; structurally unsound; asbestos; wood frame; 2 floors, WWII Bldg.

Bldgs. T-2531, T-2532
Fort Sill
2531-2532 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Numbers: 219011248, 219011250
Status: Unutilized

Base Closure: No
Comment: 1990 sq. ft. each; structurally unsound; asbestos; wood frame, 2 floors, WWII Bldg.

Bldg. T-2533
Fort Sill
2533 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011252
Status: Unutilized
Base Closure: No
Comment: 1976 sq. ft.; structurally unsound; asbestos; wood frame; 2 floors, WWII Bldg.

Bldgs. T-2544-T-2548
Fort Sill
2544-2548 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Numbers: 219011253, 219011255, 219011257, 129011258, 219011260
Status: Unutilized
Base Closure: No

Comment: 1994 sq. ft. each; asbestos; wood frame; 2 floors, No operating sanitary facilities; most recent use—barracks.

Bldgs. T-2564-T-2568
Fort Sill
2564-2568 Currie Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Numbers: 219011264, 219011266, 219011267
Status: Unutilized
Base Closure: No

Comment: 1165-1196 sq. ft. each; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T-2601
Fort Sill
2601 Ringold Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011272
Status: Unutilized
Base Closure: No
Comment: 1600 sq. ft.; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T-2606
Fort Sill
2606 Currie Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011273
Status: Unutilized
Base Closure: No
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T-2613
Fort Sill
2613 Ringold Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011276
Status: Unutilized
Base Closure: No
Comment: 4800 sq. ft.; possible asbestos, wood frame, 2 floors; most recent use—barracks.

Bldgs. T-2614-T-2615
Fort Sill
2614-2615 Ringold Road
Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91
Property Numbers: 219011278-219011279
Status: Unutilized
Base Closure: No
Comment: 3778 sq. ft. each; possible asbestos; wood frame; two floors; most recent use—barracks.

Bldgs. T-2620-T-2622, T-2626, T-2627, T-3529
Fort Sill
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Numbers: 219011281, 219011283, 219011285, 219011291, 219011292, 219011330
Status: Unutilized
Base Closure: No
Comment: 2370 sq. ft. each; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T-2623
Fort Sill
2623 Ringold Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011287
Status: Unutilized
Base Closure: No
Comment: 2400 sq. ft.; 2 story wood frame; asbestos; possible structure deficiencies.

Bldg. T-2624
Fort Sill
2624 Miner Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011288
Status: Unutilized
Base Closure: No
Comment: 3738 sq. ft.; possible asbestos, wood frame; 2 floors; most recent use—day room.

Bldgs. T-2625, T-2628-T-2631
Fort Sill
Ringold Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Numbers: 219011289, 219011294, 219011296, 219011298, 219011299
Status: Unutilized
Base Closure: No
Comment: 3664 sq. ft. each; wood frame; 2 floors; possible asbestos; most recent use—barracks.

Bldg. T-2650
Fort Sill
250 Ringold Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011301
Status: Unutilized
Base Closure: No
Comment: 4021 sq. ft.; 2 story; possible asbestos; possible structure deficiencies.

Bldg. T-2781
Fort Sill
2781 Ringold Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011312
Status: Unutilized
Base Closure: No
Comment: 2229 sq. ft.; structurally unsound; wood frame, 2 floors; asbestos.

Bldg. T-2931
Fort Sill

2931 Currie Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011313
Status: Unutilized
Base Closure: No
Comment: 435 sq. ft.; structurally unsound;
asbestos; wood frame; 1 floor.

Bldg. T-3507
Fort Sill
3507 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011315
Status: Unutilized
Base Closure: No
Comment: 2904 sq. ft.; possible asbestos;
potential heavy metal contamination; wood
frame; most recent use—chapel.

Bldg. T-3508
Fort Sill
3508 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011316
Status: Unutilized
Base Closure: No
Comment: 1964 sq. ft.; structurally unsound;
asbestos; wood frame; 1 floor, WWII Bldg.

Bldg. T-3514
Fort Sill
3514 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011322
Status: Unutilized
Base Closure: No
Comment: 1917 sq. ft.; possible asbestos;
wood frame; most recent use—
administrative.

Bldg. T-3516
Fort Sill
3516 Packard Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011324
Status: Unutilized
Base Closure: No
Comment: 1495 sq. ft.; possible asbestos;
wood frame; most recent use—
administrative.

Bldg. T-3518
Fort Sill
3518 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011325
Status: Unutilized
Base Closure: No
Comment: 2345 sq. ft.; possible asbestos;
wood frame; most recent use—
Headquarters Bldg.

Bldg. T-3519
Fort Sill
3519 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011326
Status: Unutilized
Base Closure: No
Comment: 1711 sq. ft.; one floor; wood frame;
most recent use administrative.

Bldg. T-3524
Fort Sill

3524 Walker St.
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011327
Status: Unutilized
Base Closure: No
Comment: 1603 sq. ft.; structurally unsound;
asbestos; wood frame 1 floor; WWII Bldg.

Bldg. T-3529
Fort Sill
3529 Sheridan Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011330
Status: Unutilized
Base Closure: No
Comment: 2370 sq. ft.; structurally unsound;
asbestos; wood frame; 2 floors.

Bldg. T-3534
Fort Sill
3534 Tacy Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011331
Status: Unutilized
Base Closure: No
Comment: 2467 sq. ft.; structurally unsound;
asbestos; wood frame; 1 floor; WWII Bldg.

Bldg. T-3562
Fort Sill
3562 Packard Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011334
Status: Unutilized
Base Closure: No
Comment: 1027 sq. ft.; possible asbestos;
wood frame; most recent use—storage.

Bldg. T-3638
Fort Sill
3638 Scott Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011336
Status: Unutilized
Base Closure: No
Comment: 1618 sq. ft.; 2 story wood frame;
possible asbestos; possible structural
deficiencies.

Bldg. T-3760
Fort Sill
3760 Tacy Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011337
Status: Unutilized
Base Closure: No
Comment: 2787 sq. ft.; structurally unsound;
possible asbestos; one story wood frame.

Bldg. T-3767
Fort Sill
3767 Hartell Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011339
Status: Unutilized
Base Closure: No
Comment: 2469 sq. ft.; structurally unsound;
possible asbestos; one story wood frame.

Bldgs. T-3779, T-3780
Fort Sill
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Numbers: 219011343-219011344
Status: Unutilized

Base Closure: No
Comment: 4720 sq ft each; possible asbestos,
wood frame, 2 floors, most recent use—
barracks.

Bldg. T-3781
Fort Sill
3781 Hartell Blvd.
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011345
Status: Unutilized
Base Closure: No
Comment: 2781 sq. ft.; structurally unsound,
possible asbestos; one story wood frame.

Bldg. 3788
Fort Sill
3788 Tacy Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011346
Status: Unutilized
Base Closure: No
Comment: 2758 sq. ft.; structurally unsound,
possible asbestos, one story wood frame.

Bldg. T-4520
Fort Sill
4520 Bragg Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011347
Status: Unutilized
Base Closure: No
Comment: 1249 sq. ft., 1 story wood frame,
possible asbestos, possible structural
deficiencies.

Bldgs. T-4363 - T-4365, T-4363 - T-4385
Fort Sill.
4363 McKee Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011348-219011350,
219011361-219011362, 219011364
Status: Unutilized
Base Closure: No
Comment: 1947 sq. ft. each; some utilities;
possible structural deficiencies; possible
asbestos.

Bldg. T-4366
Fort Sill
4366 McKee Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011351
Status: Unutilized
Base Closure: No
Comment: 1951 sq. ft.; some utilities, possible
structural deficiencies; possible asbestos;
two story wood frame.

Bldg. T-4521
Fort Sill
4521 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011352
Status: Unutilized
Base Closure: No
Comment: 3833 sq. ft., 1 floor, wood frame,
asbestos, most recent use—classroom.

Bldg. T-4374
Fort Sill
4374 McKee Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011355

Status: Unutilized
Base Closure: No
Comment: 1296 sq. ft.; possible structural deficiencies; possible asbestos; one story wood frame.

Bldg. T-4375
Fort Sill
4375 Bragg Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011358
Status: Unutilized
Base Closure: No
Comment: 1102 sq. ft.; structurally unsound; possible asbestos.

Bldg. T-4522
Fort Sill
4522 Wilson Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011357
Status: Unutilized
Base Closure: No
Comment: 4307 sq. ft., possible asbestos, wood frame, two floors, most recent use—barracks.

Bldg. 4524
Fort Sill
4524 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011360
Status: Unutilized
Base Closure: No
Comment: 2947 sq. ft., possible asbestos, possible structural deficiencies, one story wood frame.

Bldg. T-4525
Fort Sill
4524 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011363
Status: Unutilized
Base Closure: No
Comment: 1636 sq. ft., 1 floor, asbestos, wood frame, most recent use—Exchange Service Outlet.

Bldg. T-4386
Fort Sill
4386 Bragg Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011365
Status: Unutilized
Base Closure: No
Comment: 1447 sq. ft.; no sanitary facilities; structurally unsound; possible asbestos.

Bldg. T-4526
Fort Sill
4526 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011366
Status: Unutilized
Base Closure: No
Comment: 3833 sq. ft., 1 floor, asbestos, wood frame, most recent use—recreation building.

Bldg. T-4387
Fort Sill
4387 Bragg Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011367

Status: Unutilized
Base Closure: No
Comment: 1968 sq. ft.; no sanitary facilities; structurally unsound; possible asbestos; two story wood frame.

Bldg. T-4388
Fort Sill
4388 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011368
Status: Unutilized
Base Closure: No
Comment: 2845 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldg. P-4489
Fort Sill
4489 Walker Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011370
Status: Unutilized
Base Closure: No
Comment: 1045 sq. ft.; 1 story; concrete block structure, structurally unsound; possible asbestos.

Bldg. T-4498
Fort Sill
4498 Walker Street
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011371
Status: Unutilized
Base Closure: No
Comment: 1000 sq. ft.; wood frame; one floor; possible asbestos; most recent use—storage.

Bldg. 4528
Fort Sill
4528 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011372
Status: Unutilized
Base Closure: No
Comment: 2741 sq. ft., possible asbestos, possible structural deficiencies, one story wood frame.

Bldg. T-4530
Fort Sill
4530 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011374
Status: Unutilized
Base Closure: No
Comment: 3833 sq. ft., possible asbestos; possible structural deficiencies, one story wood frame.

Bldg. T-4501
Fort Sill
4501 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011375
Status: Unutilized
Base Closure: No
Comment: 2797 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldg. T-4502
Fort Sill
4502 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011376

Status: Unutilized
Base Closure: No
Comment: 2812 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldg. T-4503
Fort Sill
4503 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011378
Status: Unutilized
Base Closure: No
Comment: 2812 sq. ft.; asbestos, wood frame; 1 floor; most recent use—administrative.

Bldg. T-4504
Fort Sill
4504 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011379
Status: Unutilized
Base Closure: No
Comment: 2833 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative.

Bldg. T-4506
Fort Sill
4506 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011380
Status: Unutilized
Base Closure: No
Comment: 2266 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T-4507
Fort Sill
4507 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011382
Status: Unutilized
Base Closure: No
Comment: 2772 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative.

Bldg. T-4508
Fort Sill
4508 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011383
Status: Unutilized
Base Closure: No
Comment: 3833 sq. ft.; asbestos; wood frame; 1 floor; most recent use—classroom.

Bldg. T-4535
Fort Sill
4535 Hartell Blvd.
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011384
Status: Unutilized
Base Closure: No
Comment: 2816 sq. ft.; 1 story wood frame; possible asbestos; possible structural deficiencies.

Bldg. T-4509
Fort Sill
4509 Wilson Road
Lawton, OK, Co: Comanche 73503-5100
Federal Register Notice Date: 05/31/91
Property Number: 219011385
Status: Unutilized
Base Closure: No

Comment: 4153 sq. ft.; asbestos; wood frame;
1 floor; most recent use—exchange branch.

Bldg. T-4510

Fort Sill

4510 Wilson Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011386

Status: Unutilized

Base Closure: No

Comment: 3006 sq. ft.; asbestos; wood frame;
1 floor; most recent use—medical storage.

Bldg. T-4511

Fort Sill

4511 Wilson Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011388

Status: Unutilized

Base Closure: No

Comment: 2760 sq. ft.; asbestos; wood frame;
2 floors; most recent use—classroom.

Bldg. T-4513

Fort Sill

4513 Wilson Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011389

Status: Unutilized

Base Closure: No

Comment: 3842 sq. ft.; asbestos; wood frame;
1 floor; most recent use—classroom.

Bldg. T-4542

Fort Sill

4542 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011390

Status: Unutilized

Base Closure: No

Comment: 3893 sq. ft.; possible asbestos;
possible structural deficiencies; two story
wood frame.

Bldg. T-4514

Fort Sill

4514 Wilson Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011391

Status: Unutilized

Base Closure: No

Comment: 1639 sq. ft.; asbestos; wood frame;
1 floor; most recent use—medical supply.

Bldg. T-4516

Fort Sill

4516 Lewis Street

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011392

Status: Unutilized

Base Closure: No

Comment: 2262 sq. ft.; 2 story wood frame;
possible asbestos; possible structural
deficiencies.

Bldg. T-4518

Fort Sill

4518 Wilson Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011393

Status: Unutilized

Base Closure: No

Comment: 1311 sq. ft.; 1 story wood frame;
possible asbestos; possible structural
deficiencies.

Bldg. 4543

Fort Sill

4543 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011394

Status: Unutilized

Base Closure: No

Comment: 2236 sq. ft.; possible asbestos;
possible structural deficiencies; one story
wood frame.

Bldg. T-4519

Fort Sill

4519 Bragg Street

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011395

Status: Unutilized

Base Closure: No

Comment: 2282 sq. ft.; 2 story wood frame;
possible asbestos; possible structural
deficiencies.

Bldg. T-4546

Fort Sill

4546 Bragg Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011397

Status: Unutilized

Base Closure: No

Comment: 2833 sq. ft.; possible asbestos;
possible structural deficiencies; one story
wood frame.

Bldg. T-4548

Fort Sill

4548 Lewis Street

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011398

Status: Unutilized

Base Closure: No

Comment: 1976 sq. ft.; 1 story wood frame;
possible asbestos; structurally unsound.

Bldg. T-4553

Fort Sill

4553 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011400

Status: Unutilized

Base Closure: No

Comment: 1905 sq. ft.; some utilities; possible
asbestos; possible structural deficiencies;
one story wood frame.

Bldg. T-4556

Fort Sill

4556 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011401

Status: Unutilized

Base Closure: No

Comment: 2308 sq. ft.; possible asbestos;
possible structural deficiencies; one story
wood frame.

Bldg. T-4557

Fort Sill

3447 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011402

Status: Unutilized

Base Closure: No

Comment: 456 sq. ft.; possible asbestos; some
utilities; possible structural deficiencies;
one story wood frame.

Bldg. T-4558

Fort Sill

4558 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011403

Status: Unutilized

Base Closure: No

Comment: 4021 sq. ft.; 2 story wood frame;
possible asbestos; possible structural
deficiencies

Bldg. T-4720

Fort Sill

4720 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011405

Status: Unutilized

Base Closure: No

Comment: 13225 sq. ft.; visual asbestos; wood
frame; 2 floors; most recent use—recreation
bldg.

Bldg. T-4550

Fort Sill

4550 Hartell Blvd.

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219013795

Status: Unutilized

Base Closure: No

Comment: 2750 sq. ft.; 1 story wood frame;
possible asbestos; most recent use—
headquarters bldg.

Bldg. T-4378

Fort Sill

4378 Walker Street

Lawton, OK, Co: Comanche 73503-

Federal Register Notice Date: 05/31/91

Property Number: 219014323

Status: Unutilized

Base Closure: No

Comment: 1296 sq. ft.; 1 story wood frame;
possible asbestos; most recent use—
administrative support.

Bldg. T-4361

Fort Sill

4361 Bragg Road

Lawton, OK, Co: Comanche 73503-

Federal Register Notice Date: 05/31/91

Property Number: 219014324

Status: Unutilized

Base Closure: No

Comment: 3036 sq. ft.; 1 story wood frame
building; most recent use storage; possible
asbestos.

Bldg. T-836

Fort Sill

Corner of Macomb Road and Burrell Road

Lawton, OK, Co: Comanche 73503-

Federal Register Notice Date: 05/31/91

Property Number: 219014328

Status: Unutilized

Base Closure: No

Comment: 1341 sq. ft.; 1 story wood frame;
most recent use—storage; possible
asbestos.

Bldg. T-4367

Fort Sill

4367 McKee Street

Lawton, OK, Co: Comanche 73503-

Federal Register Notice Date: 05/31/91

Property Number: 219014329

Status: Unutilized

Base Closure: No

Comment: 3036 sq. ft.; 1 story wood frame; possible asbestos; most recent use—dining facility.

Bldg. T-4370

Fort Sill

4370 Walker Street

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014330

Status: Unutilized

Base Closure: No

Comment: 1296 sq. ft.; 1 story wood frame; possible asbestos; most recent use—administrative support.

Bldg. T-4379

Fort Sill

4379 Bragg Road

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014331

Status: Unutilized

Base Closure: No

Comment: 4425 sq. ft.; 2 story wood frame; most recent use barracks; possible asbestos.

Bldg. T-4368

Fort Sill

4368 McKee Street

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014333

Status: Unutilized

Base Closure: No

Comment: 4525 sq. ft.; 2 story wood frame building; possible asbestos; most recent use—barracks.

Bldg. T-4380

Fort Sill

4380 Bragg Road

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014334

Status: Unutilized

Base Closure: No

Comment: 4425 sq. ft.; 2 story wood frame; most recent use—barracks.

Bldg. T-4369

Fort Sill

4369 McKee Street

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014335

Status: Unutilized

Base Closure: No

Comment: 4425 sq. ft.; 2 story wood frame building; possible asbestos; most recent use—barracks.

Bldg. T-4919

Fort Sill

4919 Post Road

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014842

Status: Unutilized

Base Closure: No

Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. T-4914

Fort Sill

4914 Post Road

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014843

Status: Unutilized

Base Closure: No

Comment: 719 sq. ft.; 1 story mobile home trailer; needs rehab; possible asbestos.

Bldg. T-4555

Fort Sill

4555 Hartell Blvd.

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014930

Status: Unutilized

Base Closure: No

Comment: 3893 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; most recent use—barracks.

Bldg. T-4362

Fort Sill

4362 McKee Street

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014931

Status: Unutilized

Base Closure: No

Comment: 1947 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; limited utilities; most recent use—barracks.

Bldg. T-4361

Fort Sill

4361 McKee Street

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014932

Status: Unutilized

Base Closure: No

Comment: 1513 sq. ft.; 2 story wood frame; needs rehab; limited utilities; possible asbestos; most recent use—barracks.

Bldg. T-4523

Fort Sill

4523 Wilson Road

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014933

Status: Unutilized

Base Closure: No

Comment: 1639 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—storage.

Bldg. 4547

Fort Sill

4547 Hartell Blvd.

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014934

Status: Unutilized

Base Closure: No

Comment: 1062 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—administration.

Bldg. T-4541

Fort Sill

4541 Hartell Blvd.

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014935

Status: Unutilized

Base Closure: No

Comment: 2340 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—administration.

Bldg. T 4552

Fort Sill

4552 Hartell Blvd.

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014936

Status: Unutilized

Base Closure: No

Comment: 4071 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; most recent use—barracks.

Bldg. T-4360

Fort Sill

4360 Wilson Blvd.

Lawton, OK, Co: Comanche 73503—

Federal Register Notice Date: 05/31/91

Property Number: 219014937

Status: Unutilized

Base Closure: No

Comment: 2841 sq. ft.; 1 story wood frame; needs rehab; limited utilities; possible asbestos; most recent use—mess hall.

Bldg. S-701

Fort Sill

701 Randolph Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219030183

Status: Unutilized

Base Closure: No

Comment: 19903 sq. ft.; steel/wood frame; 1 story; needs rehab; possible asbestos; most recent use—general instruction building.

Bldg. T-3527

Fort Sill

3527 Sheridan Road

Lawton, OK, Co: Comanche 73503-5100

Federal Register Notice Date: 05/31/91

Property Number: 219011328

Status: Unutilized

Base Closure: No

Comment: 2370 sq. ft.; structurally unsound; asbestos; wood frame; 2 floors; WWII Bldg.

Suitable/Available Land (by Agency)

Parcel No. 32

Fort Gibson Lake

Section 2

(See County), OK, Co: Mayes

Federal Register Notice Date: 05/31/91

Property Number: 219013810

Status: Underutilized

Base Closure: No

Comment: 22 acres; rolling and open; subject to grazing lease; most recent use—recreation.

Parcel No. 33

Fort Gibson Lake

Section 4

(See County), OK, Co: Mayes

Federal Register Notice Date: 05/31/91

Property Number: 219013811

Status: Underutilized

Base Closure: No

Comment: 18 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 34

Fort Gibson Lake

Section 34

(See County), OK, Co: Mayes

Federal Register Notice Date: 05/31/91

Property Number: 219013812

Status: Underutilized

Base Closure: No

Comment: 18 acres; hilly-timbered; subject to grazing lease; most recent use—recreation.

Parcel No. 36

Fort Gibson Lake

Section 12

(See County), OK, Co: Mayes

Federal Register Notice Date: 05/31/91
Property Number: 219013813
Status: Underutilized
Base Closure: No
Comment: 19 acres; subject to grazing lease; most recent use—recreation.
Parcel No. 38
 Fort Gibson Lake
 Section 7 and 8
 (See County), OK, Co: Mayes
Federal Register Notice Date: 05/31/91
Property Number: 219013814
Status: Underutilized
Base Closure: No
Comment: 97.39 acres; rolling, partially open with trees; subject to grazing lease; most recent use—recreation.
Parcel No. 40
 Fort Gibson Lake
 Section 5
 (See County), OK, Co: Mayes
Federal Register Notice Date: 05/31/91
Property Number: 219013815
Status: Underutilized
Base Closure: No
Comment: 42 acres; timber; subject to grazing lease; most recent use recreation.
Parcel No. 41
 Fort Gibson Lake
 Section 5
 (See County), OK, Co: Mayes
Federal Register Notice Date: 05/31/91
Property Number: 219013816
Status: Underutilized
Base Closure: No
Comment: 10 acres; some trees; subject to grazing lease; most recent use—recreation.
Parcel No. 17
 Fort Gibson Lake
 Section 12
 Wagoner Co., OK, Co: Wagoner
Federal Register Notice Date: 05/31/91
Property Number: 219013807
Status: Underutilized
Base Closure: No
Comment: 25.09 acres; flat with trees; subject to grazing lease; most recent use—recreation.
Parcel No. 18
 Fort Gibson Lake
 Section 12
 Wagoner Co., OK, Co: Wagoner
Federal Register Notice Date: 05/31/91
Property Number: 219013808
Status: Underutilized
Base Closure: No
Comment: 8.77 acres; subject to grazing lease; most recent use recreation.
Parcel No. 22
 Fort Gibson Lake
 Section 16 and 21
 Wagoner Co., OK, Co: Wagoner
Federal Register Notice Date: 05/31/91
Property Number: 219013809
Status: Underutilized
Base Closure: No
Comment: 177.84 acres; rolling with timbered and open areas; subject to grazing lease; most recent use—recreation.

Oregon

Suitable/Available Land (by Agency)

GSA
 Land

Portland, OR, Co: Multnomah 97217
 Location: Near SE corner of North Union Ave. and North Marine Dr.
Federal Register Notice Date: 05/31/91
Property Number: 549120006
Status: Excess
Comment: 63,000 sq. ft. (140x450) land, most recent use—part of highway right-of-way, access is restricted.

South Carolina

Suitable/Available Buildings (by Agency)

Army

Bldg. 5436
 Fort Jackson
 Hill Street
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012559
Status: Unutilized
Base Closure: No
Comment: 946 sq. ft.; wood frame; 1 floor; needs rehab; most recent use—storage.

Bldg. 5438
 Fort Jackson
 Hill Street
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012561
Status: Unutilized
Base Closure: No
Comment: 5,079 sq. ft.; wood frame; 1 floor; needs rehab; to be vacated mid 1990.

Bldg. 5405
 Fort Jackson
 Jackson Blvd.
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012563
Status: Unutilized
Base Closure: No
Comment: 4,764 sq. ft.; 1 floor; wood frame; needs rehab; to be vacated mid 1990.

Bldg. 1554
 Fort Jackson
 Ewell Road
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012565
Status: Unutilized
Base Closure: No
Comment: 53,519 sq. ft.; 1 floor; wood frame; open bay; needs rehab; formerly used as post laundry; most recent use—storage.

Bldgs. 5429, 5428
 Fort Jackson
 Hill Street
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Numbers: 219012566, 219012572
Status: Unutilized
Base Closure: No
Comment: 71 sq. ft.; concrete; most recent use—storage; no utilities.

Bldg. 5430
 Fort Jackson
 Hill Street
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012568
Status: Unutilized
Base Closure: No
Comment: 8,000 sq. ft.; wood frame; 1 floor; needs rehab; most recent use—storage.

Bldg. 5409
 Fort Jackson
 Jackson Blvd.
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012571
Status: Unutilized
Base Closure: No
Comment: 3,900 sq. ft.; wood frame; 1 floor; needs rehab; most recent use—storage.
 Bldg. 5401
 Fort Jackson
 Jackson & Hill Streets
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012574
Status: Unutilized
Base Closure: No
Comment: 8,641 sq. ft.; wood frame; 1 floor; needs major rehab; to be vacated mid 1990.
 Bldg. 5403
 Fort Jackson
 Hill Street & Jackson Blvd.
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012575
Status: Unutilized
Base Closure: No
Comment: 6,821 sq. ft.; wood frame; 1 floor; needs rehab; to be vacated mid 1990.
 Bldg. 5405
 Fort Jackson
 Jackson Blvd.
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012577
Status: Unutilized
Base Closure: No
Comment: 4,764 sq. ft.; wood frame; 1 floor; needs rehab; to be vacated mid 1990.
 Bldgs. 5448, 5446
 Fort Jackson
 Hill Street
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Numbers: 219012584, 219012587
Status: Unutilized
Base Closure: No
Comment: 8,020 sq. ft. each; wood frame; 1 floor; needs rehab; to be vacated mid 1990.
 Bldg. 5444
 Fort Jackson
 Hill Street
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012585
Status: Unutilized
Base Closure: No
Comment: 4,970 sq. ft.; wood frame; 1 floor; needs rehab; to be vacated mid 1990.
 Bldg. 9705
 Fort Jackson
 Hampton Parkway
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012590
Status: Unutilized
Base Closure: No
Comment: Wood frame; 1 floor; needs rehab.
 Bldg. 9815
 Fort Jackson
 Off Hampton Parkway
 Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91

Property Number: 219012593
Status: Unutilized
Base Closure: No
Comment: 2,208 sq. ft.; wood frame; 1 floor; needs rehab; most recent use—storage.

Bldg. 9536
Fort Jackson
Vicinity Hampton Parkway
Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012597
Status: Unutilized
Base Closure: No
Comment: 2,250 sq. ft.; wood frame; 1 floor; needs rehab; most recent use—storage.

Bldg. 5442
Fort Jackson
Hill Street
Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012599
Status: Unutilized
Base Closure: No
Comment: 4368 sq. ft.; wood frame; 1 floor; needs rehab; to be vacated mid 1990.

Bldg. 1565
Anderson Street
Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012668
Status: Unutilized
Base Closure: No
Comment: 1565 sq. ft.; corrugated metal building; most recent use—fueling point; potential use—storage.

Bldg. 5407
Jackson Blvd.
Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219013768
Status: Unutilized
Base Closure: No
Comment: 5083 sq. ft.; 1 story wood frame; needs rehab; most recent use—storage.

Bldg. 5434
Fort Jackson
Hill Street
Fort Jackson, SC, Co: Richland 29207—
Federal Register Notice Date: 05/31/91
Property Number: 219012569
Status: Unutilized
Base Closure: No
Comment: 3600 sq. ft.; wood frame; 1 floor; needs rehab; will be vacated mid 1990.

Tennessee

Suitable/Available Land (by Agency)

Army
Milan Army Ammunition Plant
Milan, TN, Co: Carroll 38358—
Location: Plant boundary in the northeast corner of the plant & housing area
Federal Register Notice Date: 05/31/91
Property Number: 219010547
Status: Excess
Base Closure: No
Comment: 17.2 acres; right of entry legal constraint.

Suitable/Available Buildings (by Agency)

Milan Army Ammunition Plant
Area Q—Housing Area Q-27, Q-7, Q-12
Milan, TN, Co: Carroll 38358—
Federal Register Notice Date: 05/31/91

Property Number: 219010559, 219010605, 219010609
Status: Underutilized
Base Closure: No
Comment: 3 bldgs.; two story; wood frame; temporarily empty due to personnel rotation.

Area Q—Housing Area—Q-20, Q-21, Q-26, Q-22
Milan Army Ammunition Plant
Milan, TN, Co: Carroll 38358—
Federal Register Notice Date: 05/31/91
Property Numbers: 219014790, 219110032–219110033, 219110103
Status: Underutilized
Base Closure: No
Comment: 4 bldgs.; 2506 sq. ft. each; 2 story wood frame residence.

Area Q—Housing Area—Q-28, Q-9
Milan Army Ammunition Plant
Milan, TN, Co: Carroll 38358—
Federal Register Notice Date: 05/31/91
Property Numbers: 219110034, 219110102
Status: Underutilized
Base Closure: No
Comment: 2 bldgs.; 2024 sq. ft. each; 2 story wood frame residence.

Robert Joel Ridings
US Army Reserve Center
920 Cherokee Avenue
Nashville, TN, Co: Davidson 37207—
Federal Register Notice Date: 05/31/91
Property Number: 219011867
Status: Excess
Base Closure: No
Comment: 40,000 sq. ft.; 3.87 acres; concrete block; utilities disconnected; site vandalized.

Suitable/Available Land (by Agency)

Holston Army Ammunition Plant
Kingsport, TN, Co: Hawkins 61299–6000
Federal Register Notice Date: 05/31/91
Property Number: 219012338
Status: Unutilized
Base Closure: No
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

Texas

Suitable/Available Buildings (by Agency)

Army
Bldg. T-227
Fort Sam Houston
San Antonio, TX, Co: Bexar 78234—
Federal Register Notice Date: 05/31/91
Property Number: 219014275
Status: Excess
Base Closure: No
Comment: 2987 sq. ft.; 1 story wood structure; major rehab needed.

Bldgs. 1189, 1192, 1193
Fort Sam Houston
San Antonio, TX, Co: Bexar 78234—
Federal Register Notice Date: 05/31/91
Property Numbers: 219014276–219014277, 219014280
Status: Excess
Base Closure: No
Comment: 9190 sq. ft. each; 1 story wood structure; needs major rehabilitation.

Bldgs. T4001, T4004
Fort Sam Houston
San Antonio, TX, Co: Bexar 78234—

Federal Register Notice Date: 05/31/91
Property Numbers: 219014278–219014279
Status: Underutilized
Base Closure: No
Comment: 48000 sq. ft. each; 2 story wood frame building with metal siding; needs rehab; possible asbestos.

T-4013
Fort Sam Houston
San Antonio, TX, Co: Bexar 78234—
Federal Register Notice Date: 05/31/91
Property Number: 219030001
Status: Underutilized
Base Closure: No
Comment: 64067 sq. ft.; 1 story wood frame; needs rehab; limited utilities.

Bldg. 2302
Fort Hood
Headquarters Avenue
Fort Hood, TX, Co: Coryell 76544—
Federal Register Notice Date: 05/31/91
Property Number: 219030169
Status: Unutilized
Base Closure: No
Comment: 7239 sq. ft.; 2 story; needs rehab; potential utilities; presence of asbestos; most recent use—administrative/storage.

Bldg. 2234
Fort Hood
Battalion Avenue
Fort Hood, TX, Co: Coryell 76544—
Federal Register Notice Date: 05/31/91
Property Number: 219030170
Status: Unutilized
Base Closure: No
Comment: 1523 sq. ft.; 1 story; needs rehab; potential utilities; presence of asbestos; most recent use—battalion storage building.

Bldg. 2230
Fort Hood
Battalion Avenue
Fort Hood, TX, Co: Coryell 76544—
Federal Register Notice Date: 05/31/91
Property Number: 219030171
Status: Unutilized
Base Closure: No
Comment: 2025 sq. ft.; 1 story; needs rehab; potential utilities; presence of asbestos; most recent use—office/administrative.

Bldg. 35
Fort Hood
Battalion Avenue
Fort Hood, TX, Co: Coryell 76544—
Federal Register Notice Date: 05/31/91
Property Number: 219030177
Status: Unutilized
Base Closure: No
Comment: 5346 sq. ft.; 1 story; needs rehab; potential utilities; presence of asbestos; most recent use—administrative office.

Bldg. 34
Fort Hood
Battalion Avenue
Fort Hood, TX, Co: Coryell 76544—
Federal Register Notice Date: 05/31/91
Property Number: 219030179
Status: Unutilized
Base Closure: No
Comment: 3996 sq. ft.; 1 story; needs rehab; potential utilities; presence of asbestos; most recent use—administrative office.

17 Bldgs.
Fort Bliss

El Paso, TX, Co: El Paso 79916-
Federal Register Notice Date: 05/31/91
Property Numbers: 219014694, 219014943,
 219030168, 219030186-219030193,
 219110035-219110040
Status: Unutilized
Base Closure: No
Comment: 642 sq. ft.—14390 sq. ft.; 1 and 2
 story frame; off-site use only; need rehab.

Bldgs. 640, 757-759, 5440

Fort Bliss

El Paso, TX, Co: El Paso 79916-
Federal Register Notice Date: 05/31/91
Property Numbers: 219110058-2190110061,
 219110065
Status: Unutilized
Base Closure: No
Comment: 150-495 sq. ft. each; one story
 metal frame; off-site use only; mos recent
 use—general storehouse.

Bldg. 7034

7034 Sutherland Street, Lower Beaumont
 Area

Fort Bliss

El Paso, TX, Co: El Paso 79916-
Federal Register Notice Date: 05/31/91
Property Number: 219110066
Status: Unutilized
Base Closure: No
Comment: 430 sq. ft.; one story brick/stucco
 frame; off-site use only most recent use—
 storage shed.

Suitable Available Land (by Agency)

Land Saginaw Army Aircraft Plt
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014814
Status: Unutilized
Base Closure: No
Comment: 154.3 acres; includes buildings/
 structures/parking and air strip.

Suitable Buildings (by Agency)

Bldg. 2

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014815
Status: Unutilized
Base Closure: No
Comment: 94603 sq. ft.; 1 story wood and
 metal frame; subject to sewer pipeline
 easement; needs rehab.

Bldg. 4

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014816
Status: Unutilized
Base Closure: No
Comment: 1350 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 17

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014817
Status: Unutilized
Base Closure: No
Comment: 68 sq. ft.; wood and metal frame;
 subject to sewer pipeline easement; needs
 rehab; most recent use—guard house.

Bldg. 29

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014818

Status: Unutilized
Base Closure: No
Comment: 5028 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 30

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014819
Status: Unutilized
Base Closure: No
Comment: 5323 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 18

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014820
Status: Unutilized
Base Closure: No
Comment: 9560 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 6

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014821
Status: Unutilized
Base Closure: No
Comment: 1258 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 7

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014822
Status: Unutilized
Base Closure: No
Comment: 508 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 8

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014824
Status: Unutilized
Base Closure: No
Comment: 171 sq. ft.; 2 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab; most recent use—watch
 tower.

Bldg. 16

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014825
Status: Unutilized
Base Closure: No
Comment: 17263 sq. ft.; 1 story wood and
 metal frame; subject to sewer pipeline
 easement; needs rehab.

Bldg. 19

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014826

Status: Unutilized
Base Closure: No
Comment: 25399 sq. ft.; 1 story wood and
 metal frame; subject to sewer pipeline
 easement; needs rehab.

Bldg. 31

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014827
Status: Unutilized
Base Closure: No
Comment: 1392 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 9

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014828
Status: Unutilized
Base Closure: No
Comment: 244 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 25

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014829
Status: Unutilized
Base Closure: No
Comment: 1320 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab; most recent use—fire house.

Bldg. 10

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014830
Status: Unutilized
Base Closure: No
Comment: 354 sq. ft.; 2 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 26

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014831
Status: Unutilized
Base Closure: No
Comment: 3518 sq. ft.; 1 story wood and metal
 frame; subject to sewer pipeline easement;
 needs rehab.

Bldg. 21

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014832
Status: Unutilized
Base Closure: No
Comment: 65 sq. ft.; wood and metal frame;
 subject to sewer pipeline easement; needs
 rehab; most recent use—guard house.

Bldg. 22

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014833
Status: Unutilized
Base Closure: No

Comment: 50581 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 27

Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014834
Status: Unutilized
Base Closure: No

Comment: 228 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—control tower.

Bldg. 32

Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant 76070-
Federal Register Notice Date: 05/31/91
Property Number: 219014835
Status: Unutilized
Base Closure: No

Comment: 19546 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Virginia

Suitable/Available Buildings (by Agency)
Army

Bldg. 1932

Fort Belvoir
Goethals Road
Fort Belvoir, VA, Co: Fairfax 22060-
Federal Register Notice Date: 05/31/91
Property Number: 219012310
Status: Unutilized
Base Closure: No
Comment: 13780 sq. ft.; 2 floors; most recent use—storage; All utilities have been removed; needs rehab.

Bldg. 227

Fort Belvoir
OPS General Purpose Building
Fort Belvoir, VA, Co: Fairfax 22401-
Location: Off of Middleton Road
Federal Register Notice Date: 05/31/91
Property Number: 219012313
Status: Unutilized
Base Closure: No
Comment: 900 sq. ft.; one floor; concrete foundation with wood walls; utilities disconnected.

Bldg. 2222

Fort Belvoir
Fort Belvoir, VA, Co: Fairfax 22060-
Location: West of Foster Road
Federal Register Notice Date: 05/31/91
Property Number: 219012315
Status: Unutilized
Base Closure: No
Comment: 3800 sq. ft. per floor; 2 floors; concrete foundation/frame building; no utilities.

Bldg. 1932

Fort Belvoir
Goethals Road
Fort Belvoir, VA, Co: Fairfax 22060-
Federal Register Notice Date: 05/31/91
Property Number: 219012318
Status: Unutilized
Base Closure: No

Comment: 6890 sq. ft. per floor; two floors; frame on concrete foundation; possible asbestos; utilities disconnected; quarters;

Bldg. T-11130

Combined Arms Support Command and Fort Lee,

39th Street

Fort Lee, VA, Co: Fort Lee 23801-
Federal Register Notice Date: 05/31/91
Property Number: 219110141

Status: Excess

Base Closure: No

Comment: 2488 sq. ft.; one story; structurally deteriorated; off-site use only

103 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219010006-219010079.

219010972, 219010976, 219010979, 219010982, 219010984, 219010987, 219010990, 219010993, 219010995, 219010998, 219011000, 219011003, 219011010, 219011012, 219011014, 219011017, 219011020, 219011023, 219011027, 219011032-219011036, 219011038, 219011040, 219011043, 219011046, 219011047

Status: Unutilized

Base Closure: No

Comment: 4292 sq. ft. each; Selected periods are reserved for military/ training exercises.

87 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219010080-219010104,

219011002, 219011004-219011009, 219011011, 219011013, 219011015-219011016, 219011018, 219011019, 219011021-219011022, 219011024-219011028, 219011028-219011031, 219011060, 219011064-219011065, 219011067-219011068, 219011070-219011071, 219011073, 219011074, 219011076-219011077, 219011079-219011081, 219011083, 219011085-219011086, 219011088-219011089, 219011091, 219011093, 219011096-219011103, 219011105, 219011107, 219011114, 219011118, 219011121, 219011140, 219011143, 219011145-219011147, 219012797

Status: Unutilized

Base Closure: No

Comment: 2900 sq. ft. each; selected periods are reserved for military/ training exercises.

Bldgs. 1676, 1677

Fort Pickett

Blackstone, VA, Co: Nottoway 23930

Federal Register Notice Date: 05/31/91

Property Numbers: 219010971, 219010973

Status: Underutilized

Base Closure: No

Comment: 3300 sq. ft. each; Selected periods reserved for military/ training exercises; most recent use—Hdqs. Bldg.

Bldgs. 1666, 1687, 1696

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219010974-219010975, 219010977

Status: Underutilized

Base Closure: No

Comment: 1300 sq. ft. each; selected periods are reserved for military/ training exercises; most recent use—Hdqs. Bldg.

Bldgs. 1667, 1686

Fort Pickett

Blackstone, VA, Co: Nottoway 23930

Federal Register Notice Date: 05/31/91

Property Numbers: 219010978, 219010980

Status: Underutilized

Base Closure: No

Comment: 11000 sq. ft. each; most recent use—mess hall; selected periods are reserved for military/ training exercises.

Bldg. 1690

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Number: 219010981

Status: Underutilized

Base Closure: No

Comment: 2300 sq. ft.; selected periods are reserved for military/ training exercises; most recent use—storage.

Bldg. 2810

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Number: 219010983

Status: Underutilized

Base Closure: No

Comment: 3500 sq. ft.; most recent use—recreation; selected periods are reserved for military/ training exercises.

Bldgs. 2609, 2801

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219010985-219010986

Status: Underutilized

Base Closure: No

Comment: 1200 sq. ft. each; most recent use—recreation; selected periods are reserved for military/ training exercises.

Bldgs. 2602, 2808

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219010988-219010989

Status: Underutilized

Base Closure: No

Comment: 2200 sq. ft. each; most recent use—Recreation Bldg; selected periods are reserved for military/ training exercises.

Bldgs. 1315, 1316

Fort Pickett

Blackstone, VA, Co: Nottoway 23930

Federal Register Notice Date: 05/31/91

Property Numbers: 219010991-219010992

Status: Underutilized

Base Closure: No

Comment: 4038 sq. ft. each; most recent use—housing; selected periods are reserved for military/ training exercises.

4 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219010994, 219010996-219010997, 219010999

Status: Underutilized

Base Closure: No

Comment: 2256 sq. ft. each; most recent use—housing; selected periods are reserved for military/ training exercises.

Bldg. T3055

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Number: 219011001

Status: Underutilized

Base Closure: No

Comment: 2307 sq. ft.; most recent use—recreation facility; selected periods are reserved for military/training exercises.

5 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219011037, 219011039, 219011041–219011042, 21901104

Status: Underutilized

Base Closure: No

Comment: 2500 sq. ft. each; selected periods reserved for military/training exercises; most recent use—Hdqs. Bldg.

5 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23930

Federal Register Notice Date: 05/31/91

Property Numbers: 219011045, 219011048–219011049, 219011051–21901105

Status: Underutilized

Base Closure: No

Comment: 1176 sq. ft. each; selected periods of time reserved for military training exercises; most recent use—Hdqs. Bldg.

15 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219011050, 219011053–219011059, 219011061–219011063, 219011066, 219011069, 219011072, 219011075

Status: Underutilized

Base Closure: No

Comment: 2761 sq ft; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

5 Bldgs.

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219011078, 219011082, 219011084, 219011087, 21901109

Status: Underutilized

Base Closure: No

Comment: 2300 sq ft each; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldgs. 1352, 3026

Fort Pickett

Blackstone, VA, Co: Nottoway 23824

Federal Register Notice Date: 05/31/91

Property Numbers: 219011092, 219011095

Status: Underutilized

Base Closure: No

Comment: 3500 sq ft each; most recent—dining fac; selected periods are reserved for military/training exercises.

Bldg. T-6015

U.S. Army Logistics Center & Fort Lee Shop Road

Fort Lee, VA, Co: Prince George 23801

Federal Register Notice Date: 05/31/91

Property Number: 219012378

Status: Unutilized

Base Closure: No

Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. T-6018

U.S. Army Logistics Center and Fort Lee Shop Road

Fort Lee, VA, Co: Prince George 23801

Federal Register Notice Date: 05/31/91

Property Number: 219012396

Status: Unutilized

Base Closure: No

Comment: 1575 sq ft., 1 floor, no utilities, possible asbestos, needs rehab, off site use only.

Bldg. T-12054

U.S. Army Logistics Center and Fort Lee Logistics Circle

Fort Lee, VA, Co: Prince George 23801

Federal Register Notice Date: 05/31/91

Property Number: 219030328

Status: Unutilized

Base Closure: No

Comment: 4095 sq. ft.; 1 story sheet metal; needs rehab; presence of asbestos; off-site use only.

Washington

Suitable/Available Buildings (by Agency)

Army

Bldg. 875

East 10th Street & Cabell Road

Vancouver Barracks

Vancouver, WA, Co: Clark 98661-3896

Federal Register Notice Date: 05/31/91

Property Number: 219011616

Status: Excess

Base Closure: No

Comment: 13,695 sq ft., 2 story wood frame, extensive fire damage, Historic property.

Bldg. 701

SE Corner, McClelland & McLoughlin Road

Vancouver Barracks

Vancouver, WA, Co: Clark 98661-3896

Federal Register Notice Date: 05/31/91

Property Number: 219011628

Status: Unutilized

Base Closure: No

Comment: 1 story wood frame, needs extensive repairs, Historic property.

Wisconsin

Suitable/Available Buildings (by Agency)

Army

Bldg. T-1058

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013435

Status: Unutilized

Base Closure: No

Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10122

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013436

Status: Unutilized

Base Closure: No

Comment: 1900 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10123

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013437

Status: Unutilized

Base Closure: No

Comment: 2405 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-10135, T-10136, T-10137

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Numbers: 219013438–219013439, 219013442

Status: Unutilized

Base Closure: No

Comment: 96–192 sq. ft. each; 1 story wood frame; possible asbestos; hospital patient ward buildings; most recent use—power plant.

Bldg. T-10127

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013440

Status: Unutilized

Base Closure: No

Comment: 1148 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P-10119

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013441

Status: Unutilized

Base Closure: No

Comment: 215 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01088–T-01093, T-01094–T-01097, T-01014

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Numbers: 219013444–219013449, 219013452–219013455, 219013457

Status: Unutilized

Base Closure: No

Comment: 5295 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-10118, T-10120

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Numbers: 219013450–219013451

Status: Unutilized

Base Closure: No

Comment: 1250 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10113

Fort McCoy

Army Hospital Complex

Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013456

Status: Unutilized

Base Closure: No

Comment: 2393 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10121

Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013458
Status: Unutilized
Base Closure: No
Comment: 506 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldgs. T-10100—T-10103, T-10105, T-10107,
T-10108
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013459-219013463,
219013465-219013466
Status: Unutilized
Base Closure: No
Comment: 3944 sq. ft. each; 1 story wood
frame; possible asbestos; hospital/patient
ward buildings.

Bldg. T-10106
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013464
Status: Unutilized
Base Closure: No
Comment: 4105 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-10124
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013467
Status: Unutilized
Base Closure: No
Comment: 3115 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldgs. T-10125, T-10126
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013468-219013469
Status: Unutilized
Base Closure: No
Comment: 3590 sq. ft. each; 1 story wood
frame; possible asbestos; hospital/patient
ward buildings.

Bldg. T-10110
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013470
Status: Unutilized
Base Closure: No
Comment: 2548 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings; most recent use—vehicle
storage.

55 Bldgs.
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013471-219013502,
219013504-219013505, 219013515-
219013535

Status: Unutilized
Base Closure: No
Comment: 4686-4829 sq. ft. each; 1 story
wood frame; possible asbestos; hospital/
patient ward buildings.

Bldg. T-01032
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013503
Status: Unutilized
Base Closure: No
Comment: 5588 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01054
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013506
Status: Unutilized
Base Closure: No
Comment: 4184 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01033
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013507
Status: Unutilized
Base Closure: No
Comment: 5241 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01112
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013508
Status: Unutilized
Base Closure: No
Comment: 1273 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings; most recent use—morgue.

Bldg. T-01031
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013509
Status: Unutilized
Base Closure: No
Comment: 4813 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01002
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013510
Status: Unutilized
Base Closure: No
Comment: 2573 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01010
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000

Federal Register Notice Date: 05/31/91
Property Number: 219013511
Status: Unutilized
Base Closure: No
Comment: 8799 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-10109
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013512
Status: Unutilized
Base Closure: No
Comment: 2000 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01098
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013513
Status: Unutilized
Base Closure: No
Comment: 7133 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01099
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013514
Status: Unutilized
Base Closure: No
Comment: 3294 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01003
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013536
Status: Unutilized
Base Closure: No
Comment: 3366 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01001
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013537
Status: Unutilized
Base Closure: No
Comment: 3350 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01005
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013538
Status: Unutilized
Base Closure: No
Comment: 3253 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01020

Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013539
Status: Unutilized
Base Closure: No
Comment: 4150 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldgs. T-01070, T-01081
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013540-219013541
Status: Unutilized
Base Closure: No
Comment: 7133 sq. ft. each; 1 story wood
frame; possible asbestos; hospital/patient
ward buildings.

9 Bldgs.
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013542-219013544,
219013546-219013551
Status: Unutilized
Base Closure: No
Comment: 5295 sq. ft. each; 1 story wood
frame; possible asbestos; hospital/patient
ward buildings.

Bldgs. T-01011, T-01021
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013545, 219013552
Status: Unutilized
Base Closure: No
Comment: 4236 sq. ft. each; 1 story wood
frame; possible asbestos; hospital/patient
ward buildings.

Bldgs. T-01004, T-01019
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219013553-219013554
Status: Unutilized
Base Closure: No
Comment: 2815 sq. ft. each; 1 story wood
frame; possible asbestos; hospital/patient
ward buildings.

Bldg. T-01056
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013555
Status: Unutilized
Base Closure: No
Comment: 15657 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Bldg. T-01000
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013556
Status: Unutilized
Base Closure: No

Comment: 3378 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings; most recent use—fire station.

Bldg. T-01055
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54646-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013557
Status: Unutilized
Base Closure: No
Comment: 5471 sq. ft.; 1 story wood frame;
possible asbestos; hospital/patient ward
buildings.

Suitable/Unavailable Properties

Arkansas

Suitable/Unavailable Buildings (by Agency)

Army
S.W. Terry USAR Center
3600 South Pierce Street
Little Rock, AR, Co: Pulaski 72204
Federal Register Notice Date: 05/31/91
Property Number: 219014785
Status: Unutilized
Base Closure: No
Comment: 22350 sq. ft.; 1 story plus
mezzadine; masonry frame; possible
asbestos in boiler room.

U.S. Army Garrison
Fort Chaffee
4093 11th Avenue
Ft. Chaffee, AR, Co: Sebastian 72905
Federal Register Notice Date: 05/31/91
Property Number: 219014607
Status: Unutilized
Base Closure: No
Comment: 3045 sq. ft.; 1 story wood frame;
possible asbestos; needs major rehab;
potential utilities.

Arizona

Suitable/Unavailable Buildings (by Agency)

Army
Bldg. S-105
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz 85365-9102
Location: Main Administrative Area—
Between A and C streets, north of 2nd
street
Federal Register Notice Date: 05/31/91
Property Number: 219013959
Status: Underutilized
Base Closure: No
Comment: 8910 sq. ft.; 1 story metal frame;
possible asbestos; most recent use—
storage.

California

Suitable/Unavailable Buildings (by Agency)

Army
Bldg. 228
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda 94129
Federal Register Notice Date: 05/31/91
Property Number: 219013010
Status: Unutilized
Base Closure: No
Comment: 11500 sq. ft.; 3 story temporary
wood; extensive asbestos present; most
recent use—barracks.

Bldg. 939

Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda 94129
Federal Register Notice Date: 05/31/91
Property Number: 219030292
Status: Unutilized
Base Closure: No
Comment: 11300 sq. ft.; 1 story wood frame;
needs major rehab; extensive asbestos
present.

P-33 Fort Ord
East Garrison
Fort Ord, CA, Co: Monterey 93940-
Federal Register Notice Date: 05/31/91
Property Number: 219010723
Status: Unutilized
Base Closure: No
Comment: 4132 sq. ft.; 1 floor; most recent
use—storage.

T-88 Fort Ord
East Garrison
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Number: 219010768
Status: Unutilized
Base Closure: Yes
Comment: 1049 sq. ft.; 1 story; possible
asbestos.

Bldg. T-220
Artillery Street
Presidio of Monterey, CA, Co: Monterey
93940-
Federal Register Notice Date: 05/31/91
Property Number: 219014784
Status: Unutilized
Base Closure: No
Comment: 3343 sq. ft.; 2 story wood frame;
most recent use—bowling center.

Georgia

Suitable/Unavailable Buildings (by Agency)

Army
Bldg. 5325
Fort Benning, GA, Co: Muscogee 31905
Federal Register Notice Date: 05/31/91
Property Number: 219010140
Status: Unutilized
Base Closure: No
Comment: 2124 sq. ft.; most recent use—
barracks; needs rehab.

Kentucky

Suitable/Unavailable Buildings (by Agency)

Army
Bldgs. 2945, 3165
Fort Campbell
Fort Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Numbers: 219012543, 219013221
Status: Underutilized
Base Closure: No
Comment: 4248 sq. ft. each; 2 story; selected
periods are reserved for military/training
exercises; possible asbestos.

Bldgs. 144, 145
Ft. Campbell
Ft. Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Numbers: 219013140, 219013141
Status: Underutilized
Base Closure: No
Comment: 12576 sq. ft. each; 2 story; possible
asbestos.

Bldgs. 3149, 3143, 3142, 3141
 Ft. Campbell
 Ft. Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Numbers: 219013222, 219013224-219013226
Status: Underutilized
Base Closure: No
Comment: 2200 sq. ft. each; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldgs. 3135, 2733, 3132, 3133
 Ft. Campbell
 Ft. Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Numbers: 219013227, 219013229, 219013233, 219013234
Status: Underutilized
Base Closure: No
Comment: 1760 sq. ft. each; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldg. 3134
 Ft. Campbell
 Ft. Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Number: 219013228
Status: Underutilized
Base Closure: No
Comment: 1880 sq. ft.; 1 story; possible asbestos; selected periods used for military/training.

Bldg. 3111
 Ft. Campbell
 Ft. Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Number: 219013230
Status: Underutilized
Base Closure: No
Comment: 4248 sq. ft.; 2 story; possible asbestos; selected periods used for military/training exercises.

Bldg. 3113
 Ft. Campbell
 Ft. Campbell, KY, Co: Christian 42223
Federal Register Notice Date: 05/31/91
Property Number: 219013231
Status: Underutilized
Base Closure: No
Comment: 4248 sq. ft.; 2 story; possible asbestos; selected periods used for military/training exercises.

Louisiana

Suitable/Unavailable Buildings (by Agency)

Army
 Bldg. 8323
 12th Street
 Fort Polk, LA, Co: Vernon 71459-5000
Federal Register Notice Date: 05/31/91
Property Number: 219012730
Status: Underutilized
Base Closure: No
Comment: 4015 sq. ft.; temporary wood frame; most recent use—motor pool maintenance shop.

Massachusetts

Suitable/Unavailable Buildings (by Agency)

Army
 Bldg. T-209
 Fort Devens
 Fort Devens, MA 01433
Federal Register Notice Date: 05/31/91

Property Number: 219030265
Status: Underutilized
Base Closure: No
Comment: 4070 sq. ft.; 2 story wood frame; needs rehab; most recent use—barracks.
 Bldg. T-206
 Fort Devens
 Fort Devens, MA, Co: Middlesex/Worcester. 01433-
Federal Register Notice Date: 05/31/91
Property Number: 219012345
Status: Underutilized
Base Closure: No
Comment: 1000 sq. ft., 1 story, wood, most recent use—day room.

New Jersey

Suitable/Unavailable Buildings (by Agency)

Army
 Bldgs. 3315-B, 3316-C, 3329-C, 3329-E, 3346-C, 3349-B 3349-C, 3350-B, 3350-E, 3350-G, 3356-A, 3356-B, 3356-C, 3356-D
 Nelson Family Housing
 Fort Dix, NJ, Co: Burlington 08640-
Federal Register Notice Date: 05/31/91
Property Numbers: 219030194, 219030198, 219030206, 219030207, 219030223, 219030227, 219030228, 219030230-219030232, 219030235-219030238
Status: Unutilized
Base Closure: No
Comment: 879 sq. ft. each; 2 story residences; structurally deteriorated; possible asbestos.
 Bldgs. 3315-C, 3349-E, 3351-C, 3351-D, 3356-E
 Nelson Family Housing
 Fort Dix, NJ, Co: Burlington 08640
Federal Register Notice Date: 05/31/91
Property Numbers: 219030195, 219030229, 219030233, 219030234, 219030239
Status: Unutilized
Base Closure: No
Comment: 595 sq. ft.; 1 story residence; structurally deteriorated; possible asbestos.

Bldgs. 3357-C, 3357-D, 3357-E
 Nelson Family Housing
 Lexington Avenue
 Fort Dix, NJ, Co: Burlington 08640-
Federal Register Notice Date: 05/31/91
Property Numbers: 219030240-219030242
Status: Unutilized
Base Closure: No
Comment: 875 sq. ft. each; 2 story residence; structurally deteriorated; possible asbestos.
 Bldgs. 3316-A, 3316-B, 3317-A, 3322-C, 3319-C, 3323-A, 3323-B, 3332-A, 3332-B, 3333-E, 3336-F, 3336-E, 3338-B, 3339-A, 3340-A, 3342-A 3342-B, 3342-C, 3342-D, 3342-E, 3345-A, 3348-A, 3348-C, 3348-B
 Nelson Family Housing
 Fort Dix, NJ, Co: Burlington 08640
Federal Register Notice Date: 05/31/91
Property Numbers: 219030196, 219030197, 219030199, 219030201, 219030202, 219030203-219030204, 219030208-219030220, 219030222, 219030224, 219030226, 219030225
Status: Unutilized
Base Closure: No
Comment: 975 sq. ft. each; 2 story residences; structurally deteriorated; possible asbestos.

Bldgs. 3318-A, 3325-A, 3344-B
 Nelson Family Housing
 Fort Dix, NJ, Co: Burlington 08640
Federal Register Notice Date: 05/31/91
Property Numbers: 219030200, 219030205, 219030221
Status: Unutilized
Base Closure: No
Comment: 1267 sq. ft. each; 2 story residences; structurally deteriorated; possible asbestos.

Pennsylvania

Suitable/Unavailable Land (by Agency)

COMMERCE

Weather Service Forecast
 192 Shafer Road
 Corapolis, PA, Co: Allegheny 15108-
Federal Register Notice Date: 05/31/91
Property Number: 279010006
Status: Unutilized
Base Closure: No
Comment: 5 acres, limitation—future weather radar system site, potential utilities

South Carolina

Suitable/Unavailable Buildings (by Agency)

Army
 Bldg 5485
 Marion Avenue
 Fort Jackson, SC, Co: Richland
Federal Register Notice Date: 05/31/91
Property Number: 219013897
Status: Unutilized
Base Closure: No
Comment: 6303 sq. ft.; 1 story permanent structure; former heating plant; deteriorated condition.

Texas

Suitable/Unavailable Buildings (by Agency)

Army
 Bldg. 2211
 Fort Hood
 Headquarters Avenue
 Fort Hood, TX, Co: Coryell 76544
Federal Register Notice Date: 05/31/91
Property Number: 219013693
Status: Unutilized
Base Closure: No
Comment: 7239 sq. ft.; 2 story; potential utilities; needs major rehab; most recent use—guest house/storage.

Bldg. 2231
 Fort Hood
 Battalion Avenue
 Fort Hood, TX, Co: Coryell 76544
Federal Register Notice Date: 05/31/91
Property Number: 219013699
Status: Unutilized
Base Closure: No
Comment: 1998 sq. ft.; 1 story temporary frame; needs rehab.

Virginia

Suitable/Unavailable Land (by Agency)

GSA
 St. Helena Annex (former portion)
 Treadwell and South Main Streets
 Norfolk, VA, Co: Norfolk 23523
Federal Register Notice Date: 05/31/91
Property Number: 549120005

Status: Excess
Base Closure: No
Comment: 4.36 acres, most recent use—paved parking lot GSA No. 4-GR(2)-VA525AA.

Suitable/Unsuitable Buildings (by Agency)

Army

Bldg. 2809
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Number: 219030271
Status: Underutilized
Base Closure: No
Comment: 3500 sq. ft.; selected periods are reserved for military/training exercises; most recent use—recreation building.

Bldg. 2849
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Number: 219030272
Status: Underutilized
Base Closure: No
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises; most recent use—dining facility.

Bldg. 2212
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Number: 219030279
Status: Underutilized
Base Closure: No
Comment: 2256 sq. ft.; selected periods are reserved for military/training exercises; most recent use—headquarters building.

Bldg. 2417
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Number: 219030280
Status: Underutilized
Base Closure: No
Comment: 2256 sq. ft.; selected periods are reserved for military/training exercises; most recent use—headquarters building.

Bldgs. 1693, 1694, 1695
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Numbers: 219030281-219030283
Status: Underutilized
Base Closure: No
Comment: 6912 sq. ft. each; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldgs. T-3029, T-3030, T-3037, T-3038, T 3039
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Numbers: 219030284-219030288
Status: Underutilized
Base Closure: No
Comment: 4292 sq. ft. each; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldgs. 1358, 1360-1362, 1668-1675, 1676-1685,
Fort Pickett
Blackstone, VA, Co: Nottoway 23824
Federal Register Notice Date: 05/31/91
Property Numbers: 219030295-219030314
Status: Underutilized
Base Closure: No

Comment: 11000 sq. ft. each; selected periods are reserved for military/training exercises; most recent use—mess hall.

Washington

Suitable Available Land (by Agency)

Commerce
NOAA Western Regional Center
7600 Sand Point Way, NE
Seattle, WA, Co: King 98115-0070
Federal Register Notice Date: 05/31/91
Property Number: 279040001
Status: Unutilized
Base Closure: No
Comment: 35 acres with 6000 sq. ft., two story wood frame Bldg. #7, presence of asbestos, structurally deteriorated.

Alaska

Unsuitable Buildings (by Agency)

Navy
Baler Bldg., Map Grid 55N14
Naval Air Station
Adak, AK, Co: Adak 98791-
Federal Register Notice Date: 05/31/91
Property Number: 779120003
Status: Unutilized
Base Closure: No
Reason: Secured Area
Sand Shed, Map Grid 45024
Naval Air Station
Adak, AK, Co: Adak 98791-
Federal Register Notice Date: 05/31/91
Property Number: 779120004
Status: Unutilized
Base Closure: No
Reason: Secured Area
Pier #9, Map Grid 55Y1,
Naval Air Station
Adak, AK, Co: Adak 98791-
Federal Register Notice Date: 05/31/91
Property Number: 779120005
Status: Unutilized
Base Closure: No
Reason: Secured Area

Unsuitable Land (by Agency)

Eklutna Mountain & Glacier
Training Site
Fort Richardson, AK, Co: Anchorage 99505-
Location: 18 miles from Fort Richardson
Federal Register Notice Date: 05/31/91
Property Number: 219014788
Status: Unutilized
Base Closure: No
Reason: Other
Comment: Unexploded ordnance
Davis Range
Fort Richardson
Fort Richardson, AK, Co: Anchorage 99505-
Location: SW Portion of Installation
Federal Register Notice Date: 05/31/91
Property Number: 219030267
Status: Underutilized
Base Closure: No
Reason: Secured Area

Unsuitable Buildings (by Agency)

Bldg. 603
Fort Richardson
Fort Richardson, AK, Co: Anchorage 99505-
Federal Register Notice Date: 05/31/91
Property Number: 219014289
Status: Excess

Base Closure: No
Reason: Secured Area

Unsuitable Land (by Agency)

Dike Range
Fort Wainwright
Fort Wainwright, AK, Co: Fairbanks 99703-
Location: 14 miles south of Fairbanks
Federal Register Notice Date: 05/31/91
Property Number: 219014664
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material, Floodway.

Unsuitable Buildings (by Agency)

Bldg. 4006, 3705
Fort Wainwright
6th Infantry Division
Fort Wainwright, AK, Co: Fairbanks
Federal Register Notice Date: 05/31/91
Property Number: 219013778, 219013780
Status: Excess
Base Closure: No
Reason: Secured Area
Bldg. P01024
MARS Station
Fort Wainwright, AK, Co: Fairbanks 99703-
Location: Located on North Post; West of 102nd street and North of Apple Street.
Federal Register Notice Date: 05/31/91
Property Number: 219014685
Status: Unutilized
Base Closure: No
Reason: Floodway.
Bldg. 1188
Sentry Station
Fort Wainwright, AK, Co: Fairbanks 99703-
Location: Located at Trainor Gate Entrance
Federal Register Notice Date: 05/31/91
Property Number: 219014686
Status: Unutilized
Base Closure: No
Reason: Floodway.
Bldg. 1514, 1546, 1568.
Fort Wainwright, AK, Co: Fairbanks 99703-
Federal Register Notice Date: 05/31/91
Property Number: 219014687-219014689
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 2050
Sentry Station
Fort Wainwright, AK, Co: Fairbanks 99703-
Federal Register Notice Date: 05/31/91
Property Number: 219014690
Status: Unutilized
Base Closure: No
Reason: Floodway.
Bldg. 1066, 1062
Officer's Military Housing
Fort Wainwright, AK, Co: Fairbanks 99703-
Location: North of Apple street and West of 100th street.
Federal Register Notice Date: 05/31/91
Property Number: 219014691-219014692
Status: Underutilized
Base Closure: No
Reason: Floodway.

Alabama*Unsuitable Buildings (by Agency)***Army**

Bldg. P00894
 Fort McClellan
 3rd Avenue in Area 8 Motor Pool
 Fort McClellan, AL, Co: Calhoun 36205-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219110046
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Gas station.

72 Bldgs.

Redstone Arsenal

Redstone Arsenal, AL, Co: Madison 35898-
 Federal Register Notice Date: 05/31/91
 Property Numbers: 219014000, 219014003-
 219014005, 219014009-219014012, 219014015-
 219014053, 219014055-219014061, 219014064,
 219014066, 219014068-219014080,
 219014291-219014292, 219110109-219110111
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

Arkansas*Unsuitable Buildings (by Agency)***Army**

Fort Smith USAR Center
 Fort Smith
 1218 South A Street
 Fort Smith, AR, Co: Sebastian 72901-
 Federal Register Notice Date: 05/31/91
 Property Number: 219014928
 Status: Unutilized
 Base Closure: No
 Reason: Within 2000 ft. of flammable or
 explosive material.

U.S. Army Garrison
 Fort Chaffee
 428 Ellis Avenue
 Fort Chaffee, AR, Co: Sebastian 72905-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219110114
 Status: Underutilized
 Base Closure: No
 Reason: Other
 Comment: Fuel pumphouse.

U.S. Army Garrison
 Fort Chaffee
 1916 1st Avenue
 Fort Chaffee, AR, Co: Sebastian 72905-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219110115
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Fuel pumphouse.

U.S. Army Garrison
 Fort Chaffee
 2520 1st Avenue
 Fort Chaffee, AR, Co: Sebastian 72905-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219110116
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Fuel pumphouse.

Arizona*Unsuitable Buildings (by Agency)***Army**

34 Bldgs.
 Navajo Depot Activity
 Bellemont, AZ, Co: Coconino 86015
 Location: 12 miles west of Flagstaff, Arizona
 on I-40
 Federal Register Notice Date: 05/31/91
 Property Number: 219014560-219014591,
 219030273, 219030274
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

10 properties: 753 earth covered igloos; above
 ground standard magazine.
 Navajo Depot Activity
 Bellemont, AZ, Co: Coconino 86015
 Location: 12 miles west of Flagstaff, Arizona
 on I-40.
 Federal Register Notice Date: 05/31/91
 Property Number: 219014592-219014601
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

53 Bldgs.
 Yuma Proving Ground
 Yuma, AZ, Co: Yuma/La Paz 85365-9102
 Federal Register Notice Date: 05/31/91
 Property Number: 219013968, 219011729,
 219011738, 219011741-219011745,
 219013931-219013958, 219013962-219013964,
 219013966-219013967, 219013969-219013980
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

California*Unsuitable Buildings (by Agency)***Army**

8 Bldgs.
 Oakland Army Base
 Oakland, CA, Co: Alameda 94626-5000
 Federal Register Notice Date: 05/31/91
 Property Number: 219013903-219013906,
 219120048-219120051
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

17 Bldgs.
 Sierra Army Depot
 Herlong, CA, Co: Lassen 96113-
 Federal Register Notice Date: 05/31/91
 Property Number: 219014695-219014700,
 219014703-219014705, 219014713-219014717,
 219014719-219014721
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. S-369
 Sierra Army Depot
 Herlong, CA, Co: Lassen 96113
 Federal Register Notice Date: 05/31/91
 Property Number: 219014706
 Status: Unutilized
 Base Closure: No
 Reason: Other, Secured Area
 Comment: Detached Latrine.

Bldg. P-83
 Sierra Army Depot
 Road Oil Storage
 Herlong, CA, Co: Lassen 96113
 Federal Register Notice Date: 05/31/91

Property Number: 219014707

Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Oil Storage Tank.

P-C0707, P-C0708, P-C0808—Igloo
 Sierra Army Depot
 Magazine Area
 Herlong, CA, Co: Lassen 96113
 Federal Register Notice Date: 05/31/91
 Property Number: 219014708-219014710
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

39 Bldgs., Nos. 3001-3040,
 Wherry Housing, title VIII
 Sierra Army Depot
 Herlong, CA, Co: Lassen 96113
 Location: Intersection of Susanville Road and
 Flagler Blvd.
 Federal Register Notice Date: 05/31/91
 Property Number: 219030128-219030167
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. S-321, T-136-Sierra Army Depot
 Herlong, CA, Co: Lassen 96113-
 Federal Register Notice Date: 05/31/91
 Property Number: 219120046-219120047
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

P-12 Fort Ord
 East Garrison
 Fort Ord, CA, Co: Monterey 93940
 Federal Register Notice Date: 05/31/91
 Property Number: 219010722
 Status: Unutilized
 Base Closure: No
 Reason: Within 2000 ft. of flammable or
 explosive material.

16 Bldgs.
 Fort Ord, CA, Co: Monterey 93940-
 Federal Register Notice Date: 05/31/91
 Property Number: 219010724-219010727,
 219010729-219010737, 5219010739,
 219010741, 219010744
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area (some are also within
 2000 ft. of flammable or explosive
 material).

T-1781 Fort Ord
 4th St. and 1st Ave.
 Fort Ord, CA, Co: Monterey 93940
 Federal Register Notice Date: 05/31/91
 Property Number: 219010746
 Status: Unutilized
 Base Closure: No
 Reason: Within 2000 ft. of flammable or
 explosive material, Other environmental,
 Secured Area.
 Comment: Friable asbestos.

T-8, T-9, T-10, T-23, T-26, T-27, T-135 Fort
 Ord
 East Garrison
 Fort Ord, CA, Co: Monterey 93940
 Federal Register Notice Date: 05/31/91
 Property Number: 219010747, 219010749,
 219010754, 219010758, 219010761, 219010765,
 219010774
 Status: Unutilized
 Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material.

T-1782 Fort Ord
4th St. and 1st Ave
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Number: 219010748

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Other environmental.
Comment: Friable asbestos.

T-1783, T-1784, T-1785, T-1786, T-22 Fort Ord

Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010750, 219010752-219010753, 219010755-219010756

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Other environmental.
Comment: Friable asbestos.

T-1801 Fort Ord
4th St. and 1st Ave.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Number: 219010757

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

T-1806, T-1807 Fort Ord
4th St. 2nd Ave.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010759-219010760
Status: Unutilized
Base Closure: No
Reason: Other environmental. Secured Area
Comment: Contains friable asbestos.

T-1963, T-2056, T-2106 Fort Ord
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010762-219010764
Status: Unutilized
Base Closure: No
Reason: Secured Area.

T-2107-2109 Fort Ord
7th St. between 1st and 2nd Ave.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010766-219010767
219010769

Status: Underutilized
Base Closure: No
Reason: Secured Area.

T-2112-T-2115 Fort Ord
2nd Ave., 7th St.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010770-219010773
Status: Unutilized
Base Closure: No
Reason: Secured Area.

48 Bldgs.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010775-219010790,
219010792-219010806, 219010808-219010816,
219010818-219010819, 219010821,
219010823-219010824, 219010826,
219010828-219010829
Status: Underutilized

Base Closure: No
Reason: Secured Area.

3 Bldgs.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010791, 219010827,
219010831

Status: Unutilized
Base Closure: No
Reason: Secured Area.

5 Bldgs.
Fort Ord, CA, Co: Monterey 93940
Federal Register Notice Date: 05/31/91
Property Numbers: 219010807, 219010817,
219010820, 219010822 219010825

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

T-1787
Fort Ord, CA, Co: Monterey 97411
Federal Register Notice Date: 05/31/91
Property Number: 219010921

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldg. P-99, T-324
Fort Hunter Liggett
Jolon, CA, Co: Monterey 93944
Federal Register Notice Date: 05/31/91
Property Numbers: 219012413, 219012420
Status: Unutilized
Base Closure: No
Reason: Other
Comment: Latrine, detached structure.

Bldg. P-177, P-178, 325
Fort Hunter Liggett,
Infantry Road
Jolon, CA, Co: Monterey 93928
Federal Register Notice Date: 05/31/91
Property Numbers: 219012414-219012415,
219012600
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. T-323, T-322
Fort Hunter Liggett
Mission Road
Jolon, CA, Co: Monterey 93928
Location: East of Airfield
Federal Register Notice Date: 05/31/91
Property Numbers: 219012601-219012602
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.
Comment: Within 2,000 ft of sewage facility.

7 Bldgs.
Fort Ord
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Numbers: 219013574-219013577,
219013579-219013581
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Bldg. T-2880
Fort Ord
13th Street and Corps Pl.
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013817

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. T-2438, T-2106, T-2524
Fort Ord
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Numbers: 219013818-219013819,
219013821

Status: Underutilized
Base Closure: No
Reason: Secured Area.

Bldg. T-2404
Fort Ord
Tenth Street and First Avenue
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013820

Status: Underutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldg. T-1952, T-2004
Fort Ord
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013822-219013823
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Bldg. T-1705
Fort Ord
Third Street and First Avenue
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013824
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldg. T-2409
Fort Ord
Tenth Street and Second Avenue
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013825
Status: Underutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

Bldg. T-2550, T-2527
Fort Ord
Ninth Street and Third Avenue
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013826-219013827
Status: Underutilized
Base Closure: No
Reason: Secured Area.

10 Bldgs.
Fort Ord
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013828-219013837
Status: Unutilized
Base Closure: No
Reason: Secured Area.

8 Bldgs.
Fort Ord
Fort Ord, CA, Co: Monterey
Federal Register Notice Date: 05/31/91
Property Number: 219013838-219013839,
219014294-219014299

Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

4 Bldgs.

Fort Ord

Fort Ord, CA, Co: Monterey 93941

Federal Register Notice Date: 05/31/91

Property Number: 219014300-219014303

Status: Underutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. S-184

Fort Hunter

POL Road

Fort Hunter Liggett, CA, Co: Monterey 93928

Federal Register Notice Date: 05/31/91

Property Number: 219014946

Status: Underutilized

Base Closure: No

Reason: Secured Area.

27 Bldgs.

Fort Ord

Fort Ord, CA, Co: Monterey 93941-5777

Federal Register Notice Date: 05/31/91

Property Number: 219030180-219030182,

219030346-219030360, 219040379-219040381,

219110067-219110072

Status: Unutilized

Base Closure: No

Reason: Secured Area.

7 Bldgs.—Fort Ord

Fort Ord, CA, Co: Monterey 93941-5777

Federal Register Notice Date: 05/31/91

Property Number: 219120052-219120057,

219120099

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Bldg. S-108

Sharpe Army Depot

Lathrop, CA, Co: San Joaquin 95331

Location: Roth Road

Federal Register Notice Date: 05/31/91

Property Number: 219014290

Status: Underutilized

Base Closure: No

Reason: Secured Area.

Bldg. 173, 177, 197

Roth Road—Sharpe Army Depot

Lathrop, CA, Co: San Joaquin

Federal Register Notice Date: 05/31/91

Property Number: 219014940-219014942

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Bldg. 18

Riverbank Army Ammunition Plant

5300 Claus Road

Riverbank, CA, Co: Stanislaus 95367

Federal Register Notice Date: 05/31/91

Property Number: 219012554

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

9 Bldgs., Nos. 2-8, 18, 156

Riverbank Army Ammunition Plant

5300 Claus Road

Riverbank, CA, Co: Stanislaus 95367

Federal Register Notice Date: 05/31/91

Property Number: 219013582-219013590

Status: Underutilized
Base Closure: No
Reason: Secured Area.

Colorado

Unsuitable Buildings (by Agency)

Army

Bldg. T-9643, T9644

Fort Carson

Butts Airfield

Colorado Springs, CO, Co: El Paso 80913-5023

Federal Register Notice Date: 05/31/91

Property Number: 219013603-219013604

Status: Unutilized.

Base Closure: No.

Reason: Secured Area.

87 Bldgs.

Pueblo Army Depot

Pueblo, CO, Co: Pueblo 81001-

Location: 14 miles East of Pueblo City on

Highway 50

Federal Register Notice Date: 05/31/91

Property Number: 219012209, 219012211,

219012214, 219012216, 219012221,

219012223-219012224, 219012226-219012228,

219012230-219012237, 219012239-219012257,

219012260-219012278, 219012280-219012288,

219012290-219012298, 219012300, 219012303,

219012743, 219012745, 219012747-219012748,

219014845, 219120058-219120063

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Georgia

Unsuitable Buildings (by Agency)

Army

Railway Spur and Bridge

Fort Gillem

Forest Park, GA, Co: Clayton 30050-

Location: Located on Highway 42, Southeast

Federal Register Notice Date: 05/31/91

Property Number: 219014293

Status: Unutilized

Base Closure: No

Reason: Within airport runway clear zone.

Fort Stewart

Sewage Treatment Plant

Ft. Stewart, GA, Co: Hinesville 31314-

Federal Register Notice Date: 05/31/91

Property Number: 219013922

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Sewage treatment.

Unsuitable Land (by Agency)

Facility EH001

Fort Gordon

Augusta, GA, Co: Richmond 30905-

Location: Located at the Eisenhower Army

Medical Center

Federal Register Notice Date: 05/31/91

Property Number: 219014786

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Heliport—concrete pad.

Unsuitable Buildings (by Agency)

Facility 12304

Fort Gordon

Augusta, GA, Co: Richmond 30905-

Location: Located off Lane Avenue

Federal Register Notice Date: 05/31/91

Property Number: 219014787

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Wheeled vehicle grease/inspection rack.

Hawaii

Unsuitable Buildings (by Agency)

Army

P-001, PN-05

Kahuku Training Area

Kahuku Training Area Access Road

Kahuku, HI 96731-

Federal Register Notice Date: 05/31/91

Property Number: 219030322-219030323

Status: Underutilized

Base Closure: No

Reason: Secured Area.

P-88

Aliamanu Military Reservation

Honolulu, HI, Co: Honolulu 96818-

Location: Approximately 600 feet from Main

Gate on Aliamanu Drive

Federal Register Notice Date: 05/31/91

Property Number: 219030324

Status: Unutilized

Base Closure: No

Reason: Other environmental

Comment: Friable Asbestos.

PU-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11

Schofield Barracks

Kolekole Pass Road

Wahiawa, HI, Co: Wahiawa 96786-

Federal Register Notice Date: 05/31/91

Property Number: 219014836-219014837

Status: Unutilized

Base Closure: No

Reason: Secured Area.

TMK 1-6-8-8-11

Dillingham Military Reservation

Waiialua, HI, Co: Wahiawa 96791-

Location: Property adjacent to 68-999

Farrington Highway

Federal Register Notice Date: 05/31/91

Property Number: 219014838

Status: Unutilized

Base Closure: No

Reason: Other environmental

Comment: Civil Defense—Tsunami Inundated area.

TMK 1-6-9-1-29

Dillingham Military Reservation

Waiialua, HI, Co: Wahiawa 96791-

Location: In Quarry site

Federal Register Notice Date: 05/31/91

Property Number: 219014839

Status: Unutilized

Base Closure: No

Reason: Secured Area.

P-3384 East Range

Schofield Barracks

East Range Road

Wahiawa, HI, Co: Wahiawa 96786-

Federal Register Notice Date: 05/31/91

Property Number: 219030361

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Iowa*Unsuitable Buildings (by Agency)***Army****12 Bldgs.**

Iowa Army Ammunition Plant

Middletown, IA, Co: Des Moines 52638-

Federal Register Notice Date: 05/31/91

Property Number: 219012603, 219012605-

219012607, 219012609, 219012611, 219012613,

219012615, 219012618, 219012620, 219012622,

219012624

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

33 Bldgs.

Iowa Army Ammunition Plant

Middletown, IA, Co: Des Moines

Federal Register Notice Date: 05/31/91

Property Number: 219013708-219013738

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Illinois*Unsuitable Land (by Agency)***Army**

Homewood USAR Center

18760 S. Halsted Street

Homewood, IL, Co: Cook 60430

Federal Register Notice Date: 05/31/91

Property Number: 219014067

Status: Underutilized

Base Closure: No

Reason: Secured Area.

Unsuitable Buildings (by Agency)

Bldg. 725

Fort Sheridan

Highwood, IL, Co: Lake 60037-5000

Federal Register Notice Date: 05/31/91

Property Number: 219013769

Status: Underutilized

Base Closure: No

Reason: Secured Area.

Bldg. 251

Rock Island Arsenal

Rock Island, IL, Co: Rock Island 61299-5000

Federal Register Notice Date: 05/31/91

Property Number: 219012357

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldgs. 58, 59 and 72, 69, 64, 105

Rock Island Arsenal

Rock Island, IL, Co: Rock Island 61299-5000

Federal Register Notice Date: 05/31/91

Property Numbers: 219110104-219110108

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Bldg. 64-32

Joliet Army Ammunition Plant

Joliet, IL, Co: Will 60436

Federal Register Notice Date: 05/31/91

Property Number: 219011774

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Unsuitable Land (by Agency)

Group 66A

Joliet Army Ammunition Plant

Joliet, IL, Co: Will 60436

Federal Register Notice Date: 05/31/91

Property Number: 219010414

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Parcels 1-6

Joliet Army Ammunition Plant

Joliet, IL, Co: Will 60436

Federal Register Notice Date: 05/31/91

Property Numbers: 219012810, 219013796-

219013800

Status: Excess

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material Floodway.

Unsuitable Buildings (by Agency)

569 Bldgs.

Joliet Army Ammunition Plant

Joliet, IL, Co: Will 60436

Federal Register Notice Date: 05/31/91

Property Numbers: 219010153-219010317,

219010319-219010413, 219010415-219010439,

219011750-219011773, 219011775-219011879,

219011881-219011908, 219012331,

219013076-219013138, 219014722-219014781,

219030277-219030278, 219040354

Status: Unutilized

Base Closure: No

Reason: Secured Area; many within 2000 ft. of flammable or explosive materials; some within floodway.

Indiana*Unsuitable Buildings (by Agency)***Army**

117 Bldgs.

Indiana Army Ammunition Plant (INAAP)

Charlestown, IN, Co: Clark 47111

Federal Register Notice Date: 05/31/91

Property Numbers: 219010913-219010919,

219010925-219010928, 219010929-219010936,

219010952, 219010954-219010955, 219010957,

219010959-219010960, 219010962-219010964,

219010966-219010967, 219010969-219010970,

219011449, 219011454, 219011456-219011457,

219011459-219011464, 219013764, 219013848,

219014608-219014620, 219014622-219014651

219014653-219014683, 219030315.

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

6 Bldgs.

Indiana Army Ammunition Plant

Charlestown, IN, Co: Clark 47111

Federal Register Notice Date: 05/31/91

Property Numbers: 219010920, 219010924,

219010927-219010928, 219014621, 219014652

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg T-109

Fort Benjamin Harrison;

Beaumont Road

Ft. Benjamin Harrison, IN, Co: Marion 47216-5450

Federal Register Notice Date: 05/31/91

Property Number: 219011648

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material.

Unsuitable Land (by Agency)

Newport Army Ammunition Plant

East of 14th St. & North of S. Blvd.

Newport, IN, Co: Vermillion 47966

Federal Register Notice Date: 05/31/91

Property Number: 219012360

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Unsuitable Buildings (by Agency)

52 Bldgs.

Newport Army Ammunition Plant

Newport, IN, Co: Vermillion 47966

Federal Register Notice Date: 05/31/91

Property Numbers: 219011584, 219011586-

219011587, 219011589-219011590,

219011592-219011615, 219011617-219011627,

219011629-219011638, 219011638-219011641

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Kansas*Unsuitable Buildings (by Agency)***Army**

324 Bldgs.

Sunflower Army Ammunition Plant

35425 W. 103rd Street

DeSoto, KS, Co: Johnson 66018

Federal Register Notice Date: 05/31/91

Property Number: 219040005-219040006,

219040032-219040353

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Floodway, Secured Area.

25 Bldgs.

Sunflower Army Ammunition Plant

35425 W. 103rd Street

DeSoto, KS, Co: Johnson 66018

Federal Register Notice Date: 05/31/91

Property Number: 219040007-219040031

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Floodway.

Bldg. 9002

Sunflower Army Ammunition Plant

35525 W. 103rd Street

DeSoto, KS, Co: Johnson 66018

Federal Register Notice Date: 05/31/91

Property Number: 219110073

Status: Excess

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area

37 Bldgs.

Kansas Army Ammunition Plant

Production Area

Parsons, KS, Co: Labette 67357

Federal Register Notice Date: 05/31/91

Property Number: 219011909-219011945

Status: Unutilized

Base Closure: No

Reason: Secured Area (most are within 2000 ft. of flammable or explosive material).

Kentucky*Unsuitable Buildings (by Agency)***Army****Spring House**

Kentucky River Lock and Dam No. 1

Highway 320

Carrollton, KY, Co: Carroll 41008

Federal Register Notice Date: 05/31/91

Property Number: 219040416

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Spring House.

Bldg. 126

Lexington—Blue Grass Army Depot

Lexington, KY, Co: Fayette 40511

Location: 12 miles northeast of Lexington,

Kentucky

Federal Register Notice Date: 05/31/91

Property Number: 219011661

Status: Unutilized

Base Closure: No

Reason: Other, Secured Area

Comment: Sewage treatment facility.

Bldg. 12

Lexington—Blue Grass Army Depot

Lexington, KY, Co: Fayette 40511

Location: 12 miles Northeast of Lexington,

Kentucky

Federal Register Notice Date: 05/31/91

Property Number: 219011663

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Industrial waste treatment plant.

Building

Kentucky River Lock and Dam No. 4

1021 Kentucky Avenue

Frankfort, KY, Co: Franklin 40601-9999

Federal Register Notice Date: 05/31/91

Property Number: 219040417

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Coal Storage.

*Unsuitable Land (by Agency)***GSA**

Tract 701

Upper Cumberland River Basin

U.S. 421

Harlan, KY, Co: Harlan 40831

Federal Register Notice Date: 05/31/91

Property Number: 549120063

Status: Excess

Base Closure: No

Reason: Other

Comment: Inaccessible

GSA No. 4-D-KY-600.

*Unsuitable Buildings (by Agency)***Army****Barn**

Kentucky River Lock and Dam No. 3

Highway 561

Pleasureville, KY, Co: Henry 40057

Federal Register Notice Date: 05/31/91

Property Number: 219040419

Status: Underutilized

Base Closure: No

Reason: Other

Comment: 110 year old barn with crumbled foundation.

Louisiana*Unsuitable Land (by Agency)***Army****Land**

Louisiana Army Ammunition Plant

Doyline, LA, Co: Webster

Federal Register Notice Date: 05/31/91

Property Number: 219013923

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Barrow pit, predominately under water.

Unsuitable Buildings (by Agency)

48 Bldgs.

Louisiana Army Ammunition Plant

Doyline, LA, Co: Webster 71023

Federal Register Notice Date: 05/31/91

Property Numbers: 219011668-219011670,

219011691, 219011700, 219011714-219011716,

219011718-219011724, 219011726, 219011728,

219011731, 219011733-219011737, 219012112,

219013571-219013572, 219013862-219013869,

219110124-219110137

Status: Unutilized

Base Closure: No

Reason: Secured Area (most are within 2000 ft. of flammable or explosive material).

Maryland*Unsuitable Buildings (by Agency)***Army**

Bldg. 312

SPC Adams Brandt & Reserve Center

700 Ordance Road B

Baltimore, MD, Co: Anne Arundel 21226-1790

Federal Register Notice Date: 05/31/91

Property Number: 219013881

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Collapsed roof/supporting beams cracked.

9 Bldgs.

Fort George G. Meade

Fort Meade, MD, Co: Anne Arundel 20755

Federal Register Notice Date: 05/31/91

Property Number: 219014789, 219014847,

219040365-219040366, 219040368-219040372

Status: Unutilized

Base Closure: No

Reason: Secured Area.

P501

Installation #24235

Ballast House

La Plata, MD, Co: Charles 20646

Location: At the end of the access road

Federal Register Notice Date: 05/31/91

Property Number: 219011643

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. E3484

Aberdeen Proving Ground

Edgewood Area

Aberdeen City, MD, Co: Harford 21010-5425

Federal Register Notice Date: 05/31/91

Property Number: 219012617

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Unsuitable Land (by Agency)

Carroll Island, Graces Quarters

Aberdeen Proving Ground

Edgewood Area

Aberdeen City, MD, Co: Harford 21010-5425

Federal Register Notice Date: 05/31/91

Property Number: 219012630, 219012632

Status: Underutilized

Base Closure: No

Reason: Floodway, Secured Area.

Unsuitable Buildings (by Agency)

55 Bldgs.

Aberdeen Proving Ground

Aberdeen City, MD, Co: Harford 21005-5001

Federal Register Notice Date: 05/31/91

Property Number: 219011406-219011417,

219012608, 219012610, 219012612, 219012614,

219012616, 219012619, 219012623,

219012625-219012629, 219012631,

219012633-219012635, 219012637-219012642,

219012645-219012651, 219012655-219012664,

219014711-219014712, 219030316, 219013773,

219110140

Status: Unutilized

Base Closure: No

Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway).

Bldg. 10401, 10402

Aberdeen Proving Ground

Aberdeen Area

Harford, MD, Co: Harford 21005-5001

Federal Register Notice Date: 05/31/91

Property Number: 219110138-219110139

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Sewage treatment plant.

Bldg. 142-146 USARC Gaithersburg

8510 Snouffers School Road

Gaithersburg, MD, Co: Montgomery 20879-1624

Federal Register Notice Date: 05/31/91

Property Number: 219120009-219120013

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Michigan*Unsuitable Buildings (by Agency)***Army**

25 Bldgs.

Fort Custer Training Center

2501 26th Street

Augusta, MI, Co: Kalamazoo 49102-9205

Federal Register Notice Date: 05/31/91

Property Number: 219014947-219014963,

219120001-219120008

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Bldg. 602, 604

US Army Garrison Selfridge

Mt. Clemens, MI, Co: Macomb 48043

Federal Register Notice Date: 05/31/91

Property Number: 219012355-219012358

Status: Unutilized

Base Closure: No

Reason: Within airport runway clear zone, Floodway, Secured Area.

Detroit Arsenal Tank Plant

28251 Van Dyke Avenue
Warren, MI, Co: Macomb 48090
Federal Register Notice Date: 05/31/91
Property Number: 219014605
Status: Underutilized
Base Closure: No
Reason: Secured Area.

Missouri

Unsuitable Buildings (by Agency)

Army

Building-Stockton Lake Project
Old Mill Area
(See County), MO, Co: Cedar 65785
Federal Register Notice Date: 05/31/91
Property Number: 219040414
Status: Unutilized
Base Closure: No
Reason: Floodway.
Lake City Army Ammo. Plant
59, 59A, 59C, 59B
Independence, MO, Co: Jackson 64050
Federal Register Notice Date: 05/31/91
Property Number: 219013666-219013669
Status: Unutilized
Base Closure: No
Reason: Secured Area.
Bldg #1, 2, 3
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd
St. Louis, MO, Co: St. Louis 63120-1798
Federal Register Notice Date: 05/31/91
Property Number: 219120067-219120069
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Mississippi

Unsuitable Buildings (by Agency)

Army

Bldg. 8301, 8303-8305, 9158
Mississippi Army Ammunition Plant
Stennis Space Center, MS, Co: Hancock
39529-7000
Federal Register Notice Date: 05/31/91
Property Number: 219040438-219040442
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Nebraska

Unsuitable Land (by Agency)

Army

Land
Cornhusker Army Ammunition Plant
Potash Road
Grand Island, NE, Co: Hall 68802
Location: 4 miles west of Grand Island
Federal Register Notice Date: 05/31/91
Property Number: 219013785
Status: Underutilized
Base Closure: No
Reason: Floodway.

Unsuitable Buildings (by Agency)

13 Bldgs

Cornhusker Army Ammunition Plant
Grand Island, NE, Co: Hall 68802
Location: 4 miles west (Potash Road)
Federal Register Notice Date: 05/31/91
Property Number: 219013849-219013861
Status: Unutilized

Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

New Jersey

Unsuitable Buildings (by Agency)

Army

Bldg. 13-14, 15A, 41, 100, 110-111
Military Ocean Terminal
Bayonne, NJ, Co: Hudson 07002
Location: Foot of 32nd Street and Route 169
Federal Register Notice Date: 05/31/91
Property Number: 219013890-219013896
Status: Unutilized
Base Closure: No
Reason: Floodway, Secured Area.
Bldg. 2337
Fort Monmouth
Charles Wood Area
Wall, NJ, Co: Monmouth 07719
Federal Register Notice Date: 05/31/91
Property Number: 219012828
Status: Unutilized
Base Closure: No
Reason: Secured Area.
17 Bldgs. (Evans Area)
Fort Monmouth
Wall, NJ, Co: Monmouth 07719
Federal Register Notice Date: 05/31/91
Property Number: 219012829-219012844,
219013788
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Unsuitable Land (by Agency)

Land

Armament Research Development & Eng.
Center
Route 15 North
Picatinny Arsenal, NJ, Co: Morris 07808
Federal Register Notice Date: 05/31/91
Property Number: 219013788
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Unsuitable Buildings (by Agency)

192 Bldgs.

Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal, NJ, Co: Morris 07808-5000
Location:
Route 15 north
Federal Register Notice Date: 05/31/91
Property Number: 219010440-219010474,
219010476, 219010478,
219010639-219010721, 219012423-219012475,
219013787,
219014306-219014321, 219030269-219030270
Status: Excess
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

12 Bldgs.

Armament Reserve Dev. and Engineering
Center
Route 15 North
Picatinny Arsenal, NJ, Co: Morris 07808
Federal Register Notice Date: 05/31/91
Property Number: 219012756-219012767
Status: Excess
Base Closure: No
Reason: Secured Area.

Nevada

Unsuitable Buildings (by Agency)

Army

124 Bldgs.

Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral 89415-
Federal Register Notice Date: 05/31/91
Property Number: 219011953, 219011955,
219011957-219011958, 219011960,
219011962-219011963, 219011965-219011967,
219011969, 219011971-219011973, 219011975,
219011979, 219011981, 219011983,
219011985-219011986, 219011988-219011989,
219011991-219011993, 219011995,
219011998-219012001, 219012003-219012004,
219012006-219012008, 219012010-
219012012, 219012014-219012015,
219012017-219012020, 219012022-
219012024, 219012026, 219012027,
219012029-219012030, 219012032-
219012033, 219012035-219012036,
219012038-219012040, 219012042-
219012043, 219012045-219012048,
219012050-219012055, 219012059-
219012107, 219013613-219013614
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Bldg. 396

Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne, NV, Co: Mineral 89415-
Location: East side of Decatur Street-North of
Maine Avenue
Federal Register Notice Date: 05/31/91
Property Number: 219011997
Status: Unutilized
Base Closure: No
Reason: Within airport runway clear zone,
Secured Area.

64 Bldgs.

Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral 89415-
Federal Register Notice Date: 05/31/91
Property Number: 219012002, 219012005,
219012009, 219012013,
219012016, 219012021, 219012025, 219012028,
219012031,
219012034, 219012037, 219012041, 219012044,
219013615-219013665
Status: Underutilized
Base Closure: No
Reason: Secured Area (some within airport
runway clear zone; many within 2000 ft. of
flammable or explosive material).

New York

Unsuitable Land (by Agency)

Army

Watervliet Arsenal
Watervliet, NY, Co: Albany 12189-4050
Location: East of Main Arsenal Reservation
Federal Register Notice Date: 05/31/91
Property Number: 219012508
Status: Excess
Base Closure: No
Reason: Other
Comment: Easement to N.Y. State, 6-lane
highway construction.

Unsuitable Buildings (by Agency)

Bldg. 10, 20, 40

Watervliet Arsenal

Watervliet, NY, Co: Albany 12189-4050
Federal Register Notice Date: 05/31/91
Property Number: 219012514, 219012516, 219012519

Status: Underutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 25
 Watervliet Arsenal
 Watervliet, NY, Co: Albany 12189-4050
Federal Register Notice Date: 05/31/91
Property Number: 219012521
Status: Underutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material, Secured Area
Comment: Contamination.

Bldg. 110
 Fort Totten
 110 Duane Road
 Bayside, NY, Co: Queens 11359-
Federal Register Notice Date: 05/31/91
Property Number: 219012589
Status: Unutilized
Base Closure: No
Reason: Other
Comment: Contamination.

Ohio

Unsuitable Buildings (by Agency)

Army

62 Buildings
 Ravenna Army Ammunition Plant
 Ravenna, OH, Co: Portage 44266-9297
Federal Register Notice Date: 05/31/91
Property Number: 219012476-219012507, 219012509-219012513, 219012515, 219012517-219012518, 219012520, 219012522-219012523, 219012525-219012528, 219012530-219012532, 219012534-219012535, 219012537, 219013670-219013677, 219013781
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Oklahoma

Unsuitable Buildings (by Agency)

Army

6 Bldgs.
 Fort Sill
 Lawton, OK, Co: Comanche 73503-51000
Federal Register Notice Date: 05/31/91
Property Numbers: 219011243, 219011353-219011354, 219011358-219011359, 219014322
Status: Unutilized
Base Closure: No
Reason: Other
Comment: Latrines, detached structures.

549 Buildings
 McAlester Army Ammunition Plant
 McAlester, OK, Co: Pittsburg 74501
Federal Register Notice Date: 05/31/91
Property Numbers: 219014154, 219011674, 219011684, 219011687 219012113, 219013792-219013793, 219014081-219014102, 219014104, 219014107-219014137, 219014139, 219014141-219014153, 219014155-219014159, 219014161-219014162, 219014165-219014216, 219014218-219014274, 219014336-219014506, 219014508-219014559, 219030007-219030091, 219030093-219030127, 219040004, 219013981-219013995, 219011680

Status: Underutilized
Base Closure: No
Reason: Secured Area, Some are within 2000 ft. of flammable or explosive material.

Bldg. 173
 McAlester Army Ammunition Plant
 Bomb High Explosive Plant
 McAlester, OK, Co: Pittsburg 74501-5000
Location: 10 miles south of McAlester OK
Federal Register Notice Date: 05/31/91
Property Number: 219011684
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

209 Ammo. Renovation
 McAlester Army Ammunition Plant
 McAlester, OK, Co: Pittsburg 74501-5000
Location: 10 miles south of McAlester
Federal Register Notice Date: 05/31/91
Property Number: 219030092
Status: Underutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

Unsuitable Land

McAlester Army Ammo. Plant
 McAlester, OK, Co: Pittsburg 74501-5000
Location: 10 miles south of McAlester OK
Federal Register Notice Date: 05/31/91
Property Number: 219011671
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

McAlester Army Ammunition Plant
 McAlester, OK, Co: Pittsburg 74501
Federal Register Notice Date: 05/31/91
Property Number: 219014603
Status: Underutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

Oregon

Unsuitable Buildings (by Agency)

Army

24 Buildings
 Tooele Army Depot
 Umatilla Depot Activity
 Hermiston, OR, Co: Morrow 97838
Federal Register Notice Date: 05/31/91
Property Numbers: 219012196, 219012199, 219012207 219012208, 219012225, 219012279, 219014782, 219030362-219030363, 219120032, 219012177, 219012185-219012186, 219012189, 219012195, 219012200-219012205, 219014304-219014305, 219014844

Status: Unutilized
Base Closure: No
Reason: Secured Area

11 Buildings
 Tooele Army Depot
 Umatilla Depot Activity
 Hermiston, OR, Co: Morrow 97838
Federal Register Notice Date: 05/31/91
Property Numbers: 219012197-219012198, 219012217, 219012229, 219012174-219012176, 219012178, 219012179, 219012190, 219012191
Status: Underutilized
Base Closure: No
Reason: Secured Area

Pennsylvania

Unsuitable Buildings (by Agency)

Army

Hays Army Ammunition Plant
 300 Miffin Road
 Pittsburgh, PA, Co: Allegheny 15207
Federal Register Notice Date: 05/31/91
Property Number: 219011666
Status: Excess
Base Closure: No
Reason: Secured Area
Defense Personnel Support Ctr.
 2800 South 20th Street
 Philadelphia, PA, Co: Philadelphia 19101-8419
Federal Register Notice Date: 05/31/91
Property Number: 219011664
Status: Underutilized
Base Closure: No
Reason: Other environmental, Secured Area
Comment: Friable asbestos.

Unsuitable Land (by Agency)

Army

Land
 Raystown Lake
 Huntingdon, PA, Co: Huntingdon
Location: Downstream of Raystown Lake
Federal Register Notice Date: 05/31/91
Property Number: 219040420
Status: Excess
Base Closure: No
Reason: Other
Comment: Property Landlocked.

Lickdale Railhead
 Fort Indiantown Gap
 Lickdale, PA, Co: Lebanon 17038
Federal Register Notice Date: 05/31/91
Property Number: 219012359
Status: Excess
Base Closure: No
Reason: Floodway.

Lickdale Railhead
 Fort Indiantown Gap
 Lickdale, PA, Co: Lebanon 17038
Location: Adjacent to State Route 72 and 343
Federal Register Notice Date: 05/31/91
Property Number: 219012551
Status: Excess
Base Closure: No
Reason: Floodway.

Commerce

Weather Service Forecast Of.
 192 Shafer Road
 Corapolis, PA, Co: Moon Township 15108
Federal Register Notice Date: 05/31/91
Property Number: 279010004
Status: Unutilized
Base Closure: No
Reason: Within 2000 ft. of flammable or explosive material.

Tennessee

Unsuitable Buildings (by Agency)

Army

47 Buildings
 Milan Army Ammunition Plant
 Milan, TN, Co: Carroll 38358
Federal Register Notice Date: 05/31/91
Property Numbers: 219010634, 219010501, 219010503, 219010505, 219010604, 219010610-219010611, 219010613-219010614,

219010618, 219010620, 219010622, 219010625,
219010628, 219010631, 219010922,
219030317-219030319, 219010545, 219010551,
219010554, 219010557, 219010567, 219010569,
219010573, 219010578, 219010596,
219010600-219010602, 219010606-219010607,
219010615-219010617, 219010619, 219010621,
219010624, 219010626-219010627,
219010629-219010630, 219010632-219010633

Status: Unutilized

Base Closure: No

Reason: Secured Area, some are within 2000 ft. of flammable or explosive material.

132 Buildings

Milan Army Ammunition Plant

MOD—Igloo Area

Milan, TN, Co: Carroll 38358

Federal Register Notice Date: 05/31/91

Property Numbers: 219010504, 219010506-

219010508, 219010510, 219010515, 219010521,
219010523, 219010525-219010528, 219010531,
219014797, 219014801-219014802,
219014804-219014811, 219030321,
219110012-219110019, 219110030-219110031,
219110078-219110082, 219110095-219110101,

219010635-219010638, 219014792-219014795,

219110001-219110011, 219110020-219110029,

219110074-219110077, 219110083-219110094,

219010538-219010539, 219010544, 219010546,

219010548-219010550, 219010553,

219010555-219010556, 219010558,

219010561-219010568, 219010568,

219010570-219010572, 219010574-219010575,

219010577-219010582, 219010584-219010588,

219010588-219010595, 219010597, 219010599,

219010923

Status: Underutilized

Base Closure: No

Reason: Secured Area, some are within 2000 ft. of flammable or explosive material.

Unsuitable Land

Cheatham Lock and Dam

Highway 12

Ashland City, TN, Co: Cheatham 37015

Location: Tracts E-513, E-512-1 and E-512-2

Federal Register Notice Date: 05/31/91

Property Number: 219040415

Status: Underutilized

Base Closure: No

Reason: Floodway.

Land

Volunteer Army Ammunition Plant

Chattanooga, TN, Co: Hamilton

Federal Register Notice Date: 05/31/91

Property Number: 219013791

Status: Underutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Volunteer Army Ammo. Plant

Chattanooga, TN, Co: Hamilton

Location: Area around VAAP—outside fence

in buffer zone

Federal Register Notice Date: 05/31/91

Property Number: 219013830

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Unsuitable Buildings

Bldg. 707-15

Indiana Army Ammunition Plant (INAAP)

Charlestown, TN, Co: Clark 47111

Federal Register Notice Date: 05/31/91

Property Number: 219010947

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Bldg. 707-16

Indiana Army Ammunition Plant (INAAP)

Charlestown, TN, Co: Clark 47111

Federal Register Notice Date: 05/31/91

Property Number: 219010949

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Bldg. 707-17

Indiana Army Ammunition Plant (INAAP)

Charlestown, TN, Co: Clark 47111

Federal Register Notice Date: 05/31/91

Property Number: 219010951

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Bldg. 100

Volunteer Army Ammo. Plant

Chattanooga, TN, Co: Hamilton 37422

Federal Register Notice Date: 05/31/91

Property Number: 219010475

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

22 Buildings

Volunteer Army Ammo. Plant

Chattanooga, TN, Co: Hamilton 37422

Federal Register Notice Date: 05/31/91

Property Numbers: 219010477, 219010479-

219010500

Status: Underutilized

Base Closure: No

Reason: Secured Area, some are within 2000

ft. of flammable or explosive material.

20 Buildings

Holston Army Ammunition Plant

Kingsport, TN, Co: Hawkins 61299-6000

Federal Register Notice Date: 05/31/91

Property Numbers: 219012304-219012309,

219012311-219012312,

219012314, 219012316-219012317, 219012319,

219012325, 219012328,

219012330, 219012332, 219012334, 219012337,

219013790, 219030266

Status: Unutilized

Base Closure: No

Reason: Secured Area, some are within 2000

ft. of flammable or explosive material.

Bldg. 1

Holston Army Ammunition Plant

Kingsport, TN, Co: Hawkins 61299-6000

Federal Register Notice Date: 05/31/91

Property Number: 219012335

Status: Underutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Bldg. No. 1, Area B

Holston Army Ammunition Plant

Kingsport, TN, Co: Kingsport

Federal Register Notice Date: 05/31/91

Property Number: 219013789

Status: Underutilized

Base Closure: No

Reason: Secured Area.

Unsuitable Land

Brooks Bend

Cordell Hull Dam and Reservoir

Highway 85 to Brooks Bend Road

Gainesboro, TN, Co: Jackson 38562

Location: Tracts 800, 802-806, 835-837, 900-

902, 1000-1003, 1025

Federal Register Notice Date: 05/31/91

Property Number: 219040413

Status: Underutilized

Base Closure: No

Reason: Floodway.

McClure Bend

Cordell Hull Dam and Reservoir

Carthage, TN, Co: Smith 37030

Location: Highway 85 to McClure Bend Road

Federal Register Notice Date: 05/31/91

Property Number: 219040412

Status: Underutilized

Base Closure: No

Reason: Floodway.

Reason: Floodway.

Texas

Unsuitable Buildings (by Agency)

Army

Bldg. T-1191 Fort Sam Houston

San Antonio, TX, Co: Bexar 78234-5000

Federal Register Notice Date: 05/31/91

Property Number: 219120065

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material.

Bldg. T-1198 Fort Sam Houston

San Antonio, TX, Co: Bexar 78234-5000

Federal Register Notice Date: 05/31/91

Property Number: 219120066

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material.

18 Buildings

Lone Star Army Ammunition Plant

Highway 82 West

Texarkana, TX, Co: Bowie 75505-9100

Federal Register Notice Date: 05/31/91

Property Numbers: 219012524, 219012529,

219012533, 219012536, 219012539, 219012540,

219012542, 219012544-219012545,

219030337-219030345

Status: Unutilized

Base Closure: No

Reason: Within 2000 ft. of flammable or

explosive material, Secured Area.

Bldg. 40A Red River Army Depot

Texarkana, TX, Co: Bowie 75505

Federal Register Notice Date: 05/31/91

Property Number: 219120064

Status: Unutilized

Base Closure: No

Reason: Secured Area.

Bldgs. 4701, 4705, 4801

Fort Bliss

El Paso, TX, Co: El Paso 79916

Federal Register Notice Date: 05/31/91

Property Numbers: 219110062-219110064

Status: Unutilized

Base Closure: No

Reason: Other

Comment: Gas stations.

27 Ammunition Magazines

Fort Bliss Ammunition Supply Point

El Paso, TX, Co: El Paso 79916

Federal Register Notice Date: 05/31/91
 Property Numbers: 219120072-219120098
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Extensive deterioration.

Bldg. 0021A
 Longhorn Army Ammunition Plant
 Karnack, TX, Co: Harrison 75661-
 Location: State highway 43 north
 Federal Register Notice Date: 05/31/91
 Property Number: 219012546
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 0027A
 Longhorn Army Ammunition Plant
 Karnack, TX, Co: Harrison 75661
 Federal Register Notice Date: 05/31/91
 Property Number: 219012548
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 9042
 Possum Kingdom Rec Area
 Star Route, Box 200
 Grayford, TX, Co: Palo Pinto 76045
 Federal Register Notice Date: 05/31/91
 Property Number: 219040397
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Detached latrine.

Bldg. 9046
 Possum Kingdom Rec Area
 Star Route, Box 200
 Grayford, TX, Co: Palo Pinto 76045
 Federal Register Notice Date: 05/31/91
 Property Number: 219040399
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Sewage treatment plant.

Bldg. 9047
 Possum Kingdom Rec Area
 Star Route, Box 200
 Grayford, TX, Co: Palo Pinto 76045
 Federal Register Notice Date: 05/31/91
 Property Number: 219040400
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Chlorine Building.

Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76079
 Federal Register Notice Date: 05/31/91
 Property Number: 219011665
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Easement to city of Saginaw for sewer pipeline ending 5/15/2023.

Bldg. 14
 Saginaw Army Aircraft Plant
 Saginaw, TX, Co: Tarrant 76070
 Federal Register Notice Date: 05/31/91
 Property Number: 219014823
 Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Pump house

Utah

Unsuitable Buildings (by Agency)

Army

42 Buildings
 Tooele Army Depot
 Tooele, UT, Co: Tooele 84074-5008
 Federal Register Notice Date: 05/31/91
 Property Numbers: 219012110-219012111,
 219012114-219012122, 219012126, 219012128,
 219012131, 219012133, 219012136, 219012138,
 219012140, 219012146, 219012150-219012151,
 219012153, 219012159, 219012162,
 219012164-219012167, 219012169-219012170,
 219012172, 219012749, 219012752-
 219012755, 219014929, 219030366,
 219120028-219120031

Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

16 Buildings

Tooele Army Depot
 Tooele, UT, Co: Tooele 84074-5008
 Federal Register Notice Date: 05/31/91
 Property Numbers: 219012142-219012144,
 219012148-219012149, 5219012152,
 219012155, 219012156, 219012158, 219012163,
 219012171, 219012742, 219012750-219012751,
 219014938, 219040003

Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 104

Tooele Army Depot, North Area
 Tooele, UT, Co: Tooele 84074-5008
 Federal Register Notice Date: 05/31/91
 Property Number: 219120014
 Status: Underutilized
 Base Closure: No
 Reason: Other
 Comment: Extensive Deterioration.

13 Buildings

Tooele Army Depot, South Area
 Tooele, UT, Co: Tooele 84074-5008
 Location: 19 miles south of Tooele City on
 State Hwy. 36 and 73
 Federal Register Notice Date: 05/31/91
 Property Numbers: 219120015, 219120016-
 219120027

Status: Unutilized
 Base Closure: No
 Reason: Other
 Comment: Extensive deterioration.

Bldg. 8643

Dugway Proving Ground
 Dugway, UT, Co: Tooele 84022
 Location: ¼ mile north of Rising Sun Grid on
 Access Road

Federal Register Notice Date: 05/31/91
 Property Number: 219013998
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 4141

Dugway Proving Ground
 Dugway, UT, Co: Tooele 84022
 Location: Ditto area at corner of C Street and
 3rd Street

Federal Register Notice Date: 05/31/91
 Property Number: 219013996
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 8373

Dugway Proving Ground

Dugway, UT, Co: Tooele 84022

Location: 1 ½ miles south of Stark Road near
 November Road

Federal Register Notice Date: 05/31/91
 Property Number: 219013999
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 9307

Dugway Proving Ground
 Dugway, UT, Co: Tooele 84022
 Location: North of Stark Road on V Grid
 Access Road

Federal Register Notice Date: 05/31/91
 Property Number: 219013997
 Status: Underutilized
 Base Closure: No
 Reason: Secured Area.

Bldg. 7156

Dugway Proving Ground
 Dugway, UT, Co: Tooele 84022
 Federal Register Notice Date: 05/31/91
 Property Number: 219014693
 Status: Unutilized
 Base Closure: No
 Reason: Secured Area.

Virginia

Unsuitable Land (by Agency)

Army

Fort Belvoir Military Reservation—5.6 Acres
 South Post located West of Pohick Road
 Fort Belvoir, VA, Co: Fairfax 22060
 Location: Rightside of King Road
 Federal Register Notice Date: 05/31/91
 Property Number: 219012550
 Status: Unutilized
 Base Closure: No
 Reason: Within airport runway clear zone,
 Secured Area
 Comment: 5.6 acres.

Unsuitable Buildings

Bldg. 611

Fixed Laundry Building—Fort Belvoir
 Spengler Road
 Fort Belvoir, VA, Co: Fairfax 22060
 Federal Register Notice Date: 05/31/91
 Property Number: 219012547
 Status: Unutilized
 Base Closure: No
 Reason: Within 2,000 ft. of flammable or
 explosive material.

6 Buildings

Fort Belvoir, VA, Co: Fairfax 22060
 Federal Register Notice Date: 05/31/91
 Property Numbers: 219012553, 219012556-
 219012558, 2190912560, 219012562
 Status: Unutilized
 Base Closure: No
 Reason: Within 2,000 ft. of flammable or
 explosive material.

150 Buildings

Radford Army Ammunition Plant
 Radford, VA, Co: Montgomery 24141
 Federal Register Notice Date: 05/31/91
 Property Numbers: 219010833, 219010836,
 219010839, 219010842, 219010844,
 219010847-219010890, 219010892-219010912,
 219011521-219011523, 219011525-219011535,
 219011537-219011538, 219011540-219011577,
 219011581-219011583, 219011585, 219011588,
 219011591, 219013559-219013570, 219110142,

219110143, 219011524, 219011536, 219011539,
219120070, 219120071
Status: Unutilized
Base Closure: No
Reason: Within 2,000 ft. of flammable or
explosive material Secured Area.

13 Buildings

Radford Army Ammunition Plant
Radford, VA, Co: Montgomery 24141
Federal Register Notice Date: 05/31/91
Property Numbers: 219010834, 219010835,
219010837, 219010838, 219010840-219010841,
219010843, 219010845, 219010846, 219010891,
219011578-219011580

Status: Unutilized
Base Closure: No
Reason: Within 2,000 ft. of flammable or
explosive material, Secured Area Latrines,
detached structures.

13 Buildings

U.S. Army Combined Arms Support
Command
Fort Lee, VA, Co: Prince George 23801
Federal Register Notice Date: 05/31/91
Property Numbers: 219120033-219120045
Status: Unutilized
Base Closure: No
Reason: Other
Comment: Extensive deterioration.

Unsuitable Land (by Agency)

Commerce

Parcel #3
Atlantic Marine Center
439 West York Street
Norfolk, VA, Co: Norfolk 23510-
Federal Register Notice Date: 05/31/91
Property Number: 279010001
Status: Underutilized
Base Closure: No
Reason: Floodway.

Washington

Unsuitable Buildings (by Agency)

Army

34 Buildings
Fort Lewis
Fort Lewis, WA, Co: Pierce 98433-5000
Federal Register Notice Date: 05/31/91
Property Numbers: 219011651-219011652,
219011654-219011660,
219011662, 2190113782, 219013882-219013888,
219013907-219013920, 2190110144,
219013900
Status: Unutilized
Base Closure: No
Reason: Secured Area.
Bldgs. 310, 321-324, 330
130-228th Street, S.W.
Federal Regional Center (FEMA)
Bothell, WA, Co: Snohomish 98021-Federal
Register Notice Date: 05/31/91
Property Numbers: 219011637, 219011642,
219011644, 219011646-
219011647, 219011649
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Bldg. 209

Yakima Firing Center
Yakima, WA, Co: Yakima 98901-5000
Location: Exit 26 off I-82 on Yakima Firing
Center Road
Federal Register Notice Date: 05/31/91

Property Number: 219040363
Status: Excess
Base Closure: No
Reason: Within 2,000 ft. of flammable or
explosive material. Secured Area.

Wisconsin

Unsuitable Land (By Agency)

Army

Land
Badger Army Ammunition Plant
Baraboo, WI, Co: Sauk 53913-Location:
Vacant land within plant boundaries.
Federal Register Notice Date: 05/31/91
Property Number: 219013783
Status: Unutilized
Base Closure: No
Reason: Secured Area.

Unsuitable Buildings (by Agency)

Army

Bldg. P-10111
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe 54656-5000
Federal Register Notice Date: 05/31/91
Property Number: 219013443
Status: Unutilized
Base Closure: No
Reason: Other Comment: Structure is boiler
plant for hospital.

6 Buildings

Badger Army Ammunition Plant
Baraboo, WI, Co: Sauk 53913
Federal Register Notice Date: 05/31/91
Property Numbers: 219011094, 219011209-
219011212, 219011217
Status: Underutilized
Base Closure: No
Reason: Within 2,000 ft. of flammable or
explosive material Other environmental
Secured Area
Comment: friable asbestos.

154 Buildings

Badger Army Ammunition Plant
Baraboo, WI, Co: Sauk 53913
Federal Register Notice Date: 05/31/91
Property Numbers: 219011104, 219011106,
219011108-219011113,
219011115-219011117, 219011119-219011120,
219011122-219011139,
219011141-219011142, 219011148-219011208,
219011213-219011216,
219011218-219011234, 219011236, 219011238,
219011240, 219011242,
219011244, 219011247, 219011249, 219011251,
219011254, 219011256,
219011259, 219011263, 219011265, 219011268,
219011270, 219011275,
219011277, 219011280, 219011282, 219011284,
219011286, 219011290,
219011293, 219011295, 219011297, 219011300,
219011302, 219011304-
219011311, 219011317, 219011319-219011321,
219011323

Status: Unutilized

Base Closure: No

Reason: Within 2,000 ft. of flammable or
explosive material Other environmental
Secured Area

Comment: friable asbestos.

Bldg. 264

Badger Army Ammunition Plant
Bus Station
Baraboo, WI, Co: Sauk 53913

Federal Register Notice Date: 05/31/91

Property Number: 219013784

Status: Unutilized

Base Closure: No

Reason: Within 2,000 ft. of flammable or
explosive material.

6 Buildings

Badger Army Ammunition Plant
Baraboo, WI, Co: Sauk
Federal Register Notice Date: 05/31/91
Property Numbers: 219013870-219013875
Status: Underutilized
Base Closure: No
Reason: Secured Area

5 Buildings

Badger Army Ammunition Plant
Baraboo, WI, Co: Sauk
Federal Register Notice Date: 05/31/91
Property Numbers: 219013876-219013878,
219030275, 219030276
Status: Unutilized
Base Closure: No
Reason: Secured Area.

[FR Doc. 91-12911 Filed 5-31-91; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-4212-13; IDI-25446, IDI-26673]

Exchange and Order Providing for Opening of Public Lands; Idaho

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of exchange and opening
order.

SUMMARY: The United States has issued
two exchange conveyance documents as
shown below under section 206 of the
Federal Land Policy and Management
Act. In addition to providing official
public notice of the exchanges, this
document contains an order which
opens lands received by the United
States to the public land, mining, and
mineral leasing laws.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT:
Sally Carpenter, BLM, Idaho State
Office, 3380 Americana Terrace, Boise,
Idaho, (208) 384-3163.

1. In two exchanges made under the
provisions of section 206 of the Act of
October 21, 1976, 90 Stat. 2756, 43 U.S.C.
1716, the following described lands have
been conveyed from the United States:

Boise Meridian

IDI-25446 (Conveyed to Steven L. and Dan E.
Murdock, of Hamer, Idaho)

T. 8 N., R. 36 E.,

Sec. 21, W 1/2 SW 1/4.

IDI-26673 (Conveyed to Thomas L. and
Theresa E. Eden, of Burbank, California)

T. 10 N., R. 34 E.,

Sec. 29, SE 1/4 SW 1/4 and SW 1/4 SE 1/4;

Sec. 32, NE¼, NE¼NW¼, S¼NW¼, NE¼SW¼, N¼SE¼, and SE¼SE¼;
Sec. 33, W¼SW¼.

Comprising 680.00 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridan

IDI-25466 (Acquired from Dan Murdock)

T. 5 N., R. 37 E.,

Sec. 12, that portion of lot 5 lying north of the Butte Market Lake Canal.

T. 5 N., R. 38 E.,

Sec. 7, that portion of lots 7 and 8 and SW¼NE¼ lying north of the Butte Market Lake Canal.

IDI-26673 (Acquired from Thomas L. and Theresa E. Eden)

T. 10 N., R. 34 E.,

Sec. 1, lot 4;

Sec. 2, lots 1 to 4, inclusive, and SW¼NE¼;

Sec. 3, lot 1;

Sec. 9, SE¼SE¼;

Sec. 10, SW¼SW¼;

Sec. 15, W¼W¼;

Sec. 22, N¼NW¼.

Comprising 680.79 acres of private land.

The purpose of the exchange was to acquire non-Federal lands which have a water right for a spring and high public value for grazing and wildlife habitat. The public interest was well served through completion of both exchanges. The values of both the Federal and non-Federal lands in the Murdock exchange were appraised at \$6,600 each. The value of the Federal land in the Eden exchange was appraised at \$45,000 while the value of the non-Federal land was appraised at \$45,500.

3. At 9 a.m. on July 5, 1991, the reconveyed private lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on July 5, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on July 5, 1991, the reconveyed private lands described in paragraph 2, will be opened to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law

where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Duane Olsen,

Acting Deputy State Director for Operations.

[FR Doc. 91-12964 Filed 5-31-91; 8:45 am]

BILLING CODE 4310-GG-M

[UT-020-01-4212-14; U-65684]

Salt Lake District; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public lands in Utah County, Utah.

SUMMARY: The BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following public land is being considered for exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

	Acres
T. 9S., R. 3E., SLM, UT Section 5, E¼SE¼ Section 8, Lots 1 through 12.....	549.820

Final determination on exchange will await completion of an environmental analysis. In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the public lands, as described in this notice, from appropriation under the public land laws, including the mineral laws, but not the mineral leasing laws.

The segregation of the above described lands shall terminate upon issuance of a document conveying such lands or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

This notice will cancel and replace the segregative effects of all previously published notices on the public lands described herein.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 91-13000 Filed 5-31-91; 8:45 am]

BILLING CODE 4310-DQ-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 18, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by June 18, 1991.

Carol D. Schull,

Chief of Registration, National Register.

ILLINOIS

Lake County

Jensen, Jens, Summer House and Studio
[Highland Park MRA], 930 Dean Ave.,
Highland Park, 83004572

OREGON

Benton County

Gaylord, Charles, House, 600 NW. Seventh
St., Corvallis, 91000805

Lewisburg Hall and Warehouse Company
Building, 6000 NE. Elliott Cir., Corvallis,
91000804

Soap Creek School, 37465 Soap Creek Rd.,
Corvallis vicinity, 91000803

Crook County

Crook County Bank Building, 246 N. Main St.,
Prineville, 91000802

Hood River County

Smith, E. L., Building, 213-215 Oak St., Hood
River, 91000801

Jackson County

Schuler Apartment Building, 38 N. Oakdale
Ave., Medford, 91000800

Josephine County

Speed's Place on the Rogue, 11407 Merlin—
Galice Road., Galice vicinity, 91000808

Linn County

First Baptist Church of Brownsville, 515 N.
Main St., Brownsville, 91000807

Marion County

Lamport, Frederick S., House, 590 Lower Ben
Lomond Dr. SE., Salem, 91000806

Multnomah County

Chamberlain, George Earle, House, 1927 NE.
Tillamook St., Portland, 91000815

Greenwood, Frederick and Grace, House, 248
SW. Kingston Ave., Portland, 91000814

Hall, Hazel, House, 104-106 NW. 22nd Pl.,
Portland, 91000813

Hendershott, Dr. Harry M., House

[Architecture of Ellis F. Lawrence MPS],
824 NW. Albemarle Terr., Portland,
91000797

Jantzen Knitting Mills Company Building,
1935 NE. Glisan St., Portland, 91000812
Smith, Blaine, House [Architecture of Ellis F. Lawrence MPS], 5219 SE. Belmont St., Portland, 91000798

Smith, Stanley C. E., House [Architecture of Ellis F. Lawrence MPS], 01905 SW. Greenwood Rd., Portland vicinity, 91000796
Zimmerman—Rudeen House, 3425 NE. Beakey St., Portland, 91000811

Wallowa County

Barnard, Dr. J. W., Building and First National Bank of Joseph, 012-014 Main St., Joseph, 91000810

Wasco County

Humason, Orlando, House, 908 Court St., The Dalles, 91000809

Yamhill County

Yamhill River Lock and Dam, Across the Yamhill R. at S terminus of Locks Rd., Dayton vicinity, 91000799

[FR Doc. 91-13033 Filed 5-31-91; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Hendrix Batting Company, 2310 Surret Drive, P.O. Box 7105, High Point, North Carolina 27264.

2. Wholly owned subsidiaries which will participate in the operations, and State of incorporation: Hendrix Transport, Inc., a North Carolina corporation.

B. 1. Parent Corporation: Supradur Companies, Inc., 411 Theodore Fremd Avenue, P.O. Box 908, Rye, New York 10580.

2. Wholly-owned Subsidiaries:

(i) Supradur Manufacturing Corporation—A Pennsylvania Corporation.

(ii) Appaloosa Express, Inc.—A Pennsylvania Corporation.

(iii) Supradur Canada, Inc.—A Province of Quebec Corporation.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-13031 Filed 5-31-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31879]

Lewisburg & Buffalo Creek Railroad Corp.—Acquisition, Exemption—Milton Industrial Track; Exemption

Lewisburg & Buffalo Creek Railroad Corp. (L&BC), a noncarrier controlled by Richard C. Sanders (Sanders), filed a notice of exemption for acquisition and future operation ¹ of 8.965 miles of rail line between West Milton and Winfield, in Union County, PA, owned by Sanders.² West Shore Railway Services, Inc. (WSRS), will operate the lines under an agreement with Sanders assigned to L&BC.³

The transaction was expected to be consummated after the May 16, 1991, effective date of the exemption. The transaction also involved the issuance of securities by L&BC, an exempt transaction under 49 CFR 1175.1.⁴

¹ An exemption to acquire a line of railroad embraces the exemption to operate that line, regardless of whether the acquiring entity will immediately operate the line in its own right or lease the line to another entity with the possibility that the acquiring entity/lessor may operate the line in the future. Accordingly, any future operation by L&BC need not be exempted separately. See Finance Docket No. 30317, *New York, Susquehanna and Western Railway Corporation, Pocono, Northeast Railway, Inc., and IR, Inc.—Exemption—49 U.S.C. 10901, 11301, and 10746* (not printed), served June 17, 1985.

² The lines include: (1) The Milton Industrial Track (MIT), formerly the Milton Secondary Track, an 8.4-mile line extending between approximately milepost 161.4, at Winfield, and approximately milepost 169.8, at West Milton; (2) Limekiln Branch, a 0.19-mile line in Winfield extending between its connection with MIT at approximately milepost 161.75 and the western edge of Dry Creek Run; and (3) Penitentiary Branch, a 0.375-mile line in Lewisburg extending between its connection with MIT at approximately milepost 167.25 and a point approximately 300 feet north of the International Paper Company switch.

³ WSRS's operation of the lines is the subject of a notice of exemption in Finance Docket No. 31872, *West Shore Railway Services, Inc.—Operation Exemption—Milton Industrial Track*. A related notice of exemption is Finance Docket No. 31872 (Sub-No. 1), *Richard D. Robey—Continuance in Control Exemption—West Shore Railway Services, Inc.*

⁴ Mr. Sanders will be in control of L&BC. The notice here discloses that Mr. Sanders also has an interest as a stockowner, director, and officer in West Shore Railroad Corporation (West Shore), said to be a carrier connecting with the "Sanders Lines" (presumably the involved lines). While the parties here do not consider this interest to result in Sanders being in control of West Shore and subject to the requirements of 49 U.S.C. 11343, resolution of this issue is a matter of fact and law beyond the scope of this proceeding. "Control or management" within the meaning of the statute embraces all types of control or management. See *Colletti—Control—Comet Freight Lines*, 38 M.C.C. 95, 97 (1942). Publication of this notice should not be construed as Commission acquiescence in L&BC's representations as to this issue, with respect to which no determination is made.

Any comments must be filed with the Commission and served on: Eric M. Hocky, Rubin Quinn Moss Heaney & Patterson, P.C., 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

L&BC shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 407.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petition to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 23, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-13032 Filed 5-31-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31872 (Sub-No. 1)]

Exemption; Richard D. Robey—Continuance in Control Exemption—West Shore Railway Services, Inc.

Richard D. Robey filed a notice of exemption to continue to control West Shore Railway Services, Inc. (WSRS). WSRS was to become a Class III carrier operating approximately 8.965 miles of rail lines between West Milton and Winfield, Union County, PA, known generally as the Milton Industrial Track. WSRS filed an exemption notice to operate the lines in Finance Docket No. 31872, *West Shore Services, Inc.—Operation Exemption—Milton Industrial Track*.

Mr. Robey owns and operates the following Class III rail common carriers: North Shore Railroad Company, Nittany & Bald Eagle Railroad Company, Shamokin Valley Railroad Company, and the Stourbridge Railroad Company. He indicates that: (1) The properties operated by the named railroads will not connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each

other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Richard R. Wilson, Vuono, Lavelle & Gray, 2310 Grant Building, Pittsburgh, PA 15219.

Decided: May 23, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-13029 Filed 5-31-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31872]

Exemption; West Shore Railway Services, Inc.—Operation Exemption—Milton Industrial Track

West Shore Railway Services, Inc. (WSRS), a Pennsylvania corporation formed by Richard D. Robey,¹ filed a notice of exemption to operate 8.965 miles of rail line between West Milton and Winfield, in Union County, PA.² The transaction was to be consummated May 1, 1991.³

¹ Mr. Robey controls several class III rail common carriers. He concurrently filed a notice in Finance Docket No. 31872 (Sub-No. 1), to exempt, under 49 CFR 1180.2(d), his continuance in control of WSRS.

² The lines, then owned by Richard C. Sanders, were to be acquired by Lewisburg & Buffalo Creek Railroad Corp. (L&BC) under an exemption notice in Finance Docket No. 31879. The operating agreement between WSRS and Mr. Sanders was to be assigned to L&BC by Sanders as part of the acquisition.

The lines include: (1) the Milton Industrial Track (MIT), formerly the Milton Secondary Track, an 8.4-mile line extending between approximately milepost 161.4, at Winfield, and approximately milepost 169.8, at West Milton; (2) Limekiln Branch, a 0.19-mile line in Winfield extending between its connection with MIT at approximately milepost 161.75 and the western edge of Dry Creek Run; and (3) Penitentiary Branch, a 0.376-mile line in Lewisburg extending between its connection with MIT at approximately milepost 167.25 and a point approximately 300 feet north of the International Paper Company switch.

³ The parties' intent notwithstanding, consummation could not occur before the May 8, 1991, effective date of the exemption. 49 CFR 1150.32(b).

Any comments must be filed with the Commission and served on: Richard R. Wilson, Vuono, Lavelle, & Gray, 2310 Grant Building, Pittsburgh, PA 15219.

WSRS shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 407.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 23, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-13030 Filed 5-31-91; 8:45 am]

BILLING CODE 7035-01-M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Standing Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States.

SUBAGENCY: Committee on rules of practice and procedure.

ACTION: Notice of open meeting.

SUMMARY: There will be a three-day meeting of the Judicial Conference Committee on Rules of Practice and Procedure. The meeting will be open to public observation but not participation. The meeting will commence at 8:30 a.m.

DATES: July 18-20, 1991.

ADDRESSES: The Equinox Hotel, Route 7A, Manchester Village, Vermont.

FOR FURTHER INFORMATION CONTACT: Joseph F. Spaniol, Jr., Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 633-6021.

Dated: May 20, 1991.

Joseph F. Spaniol, Jr.,

Secretary, Committee on Rules of Practice and Procedure.

[FR Doc. 91-12665 Filed 5-31-91; 8:45 am]

BILLING CODE 2210-01-M

**DEPARTMENT OF LABOR
Pension and Welfare Benefits
Administration**

[Prohibited Transaction Exemption 91-31; Exemption Application No. D-8562, et al.]

**Grant of Individual Exemptions;
Columbia Artists Management, Inc.
Profit Sharing Plan, et al.**

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the *Federal Register* of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Columbia Artists Management Inc. Profit Sharing Plan (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 91-31; Exemption Application No. D-8562]

Exemption

Effective September 22, 1989, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The sale, on September 22, 1989, by the Plan of a note (the Note) to Columbia Artists Management, Inc. (the Employer), the sponsor of the Plan, and (2) the assignment on the same date by the Plan to the Employer of a mortgage on a parcel of real estate in Quogue, New York, which secures the Note; provided that the terms of the transactions were no less favorable to the Plan than similar transactions negotiated at arm's length with unrelated third parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 26, 1991, at 56 FR 12562.

FOR FURTHER INFORMATION CONTACT: Angelena Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

National Bank of Alaska Common Trust Fund "A" (the Fund) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 91-32; Exemption Application No. D-8498]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of six secured promissory notes (the Notes) by the Fund to the National Bank of Alaska, a party in interest with respect to the Fund, for the greater of (1) the outstanding principal of the Notes, plus accrued interest owing on the Notes on the date of Sale, or (2) the fair market value of the Notes as determined by a qualified, independent appraiser on the date of the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 26, 1991, at 56 FR 12561.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of May, 1991.

Ivan Strasfeld,
Director of Exemption Determinations,
Pension and Welfare Benefits Administration
U.S. Department of Labor.

[FR Doc. 91-1300 Filed 5-31-91; 8:45 am]
BILLING CODE 4510-29-M

[Application Number T-7840]

Proposed Amendment to Prohibited Transaction Exemption (PTE) T88-1 Involving Class Exemptions for the Thrift Savings Fund

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of a proposed amendment to PTE T88-1.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE T88-1. PTE T88-1 adopted, for purposes of the prohibited transaction provisions of section 8477(c)(2) of the Federal Employees' Retirement System Act of 1986 (FERSA or the Act), certain prohibited transaction class exemptions (the Class Exemptions) which were granted pursuant to section 408(a) of the Employee Retirement Income Security Act of 1974. The proposed amendment, if adopted, would affect participants and beneficiaries of the Thrift Savings Fund (the Fund), a fund established pursuant to provisions of FERSA, and parties in interest with respect to the Fund.

DATES: Written comments or requests for a hearing must be received by the Department on or before August 21, 1991.

EFFECTIVE DATE: if adopted, the proposed amendment of PTE T88-1 would apply to transactions occurring on or after January 1, 1988.

ADDRESSES: Written comments and requests for a hearing (preferably at least three copies) should be submitted to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, room N-5649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention FERSA Class Exemptions. All submissions will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Lyssa E. Hall, Office of Exemption Determinations, Pension and Welfare Benefits Administration, (202) 523-8971 (this is not a toll free number), or Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, Washington, DC 20210 (202) 523-9141 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering an amendment to PTE T88-1 (53 FR 52838, December 29, 1988). PTE

T88-1 adopted certain Class Exemptions for purposes of the prohibited transaction provisions of section 8477(c)(2) of FERSA.¹ The Class Exemptions were adopted only to the extent that they provide exemptive relief from the restrictions of section 406(b) of ERISA or subsections thereunder, which are parallel to those of section 8477(c)(2) of FERSA. The Department is proposing this amendment to PTE T88-1 pursuant to the authority of the Secretary of Labor (the Secretary) established in section 8477(c)(3) of FERSA. Subparagraph (E) of section 8477(c)(3) provides that the Secretary may adopt exemptions granted for any class of fiduciaries or transactions under section 408(a) of ERISA for purposes of section 8477(c)(2) of FERSA, upon publication of notice in the *Federal Register*. The Department is proposing this amendment on its own motion in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32826, 32847, August 10, 1990), specifically § 2570.32 of that Procedure.

Occasionally, the Department will propose an amendment to a class exemption either on its own motion or pursuant to a request submitted by members of the public.² Such amendments are granted for purposes of ERISA pursuant to the provisions of section 408(a) of ERISA and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).³ Prior to granting an exemption, the Department must make a determination that the amendment is administratively feasible, in the interests of the plan participants and beneficiaries and protective of the rights of plan

participants and beneficiaries. Notice of the pendency of each amendment is published in the *Federal Register* and interested persons are afforded the opportunity to present their views and, where appropriate, to request a hearing.

In general, the Department recognizes that it may be in the interests of plan participants and beneficiaries to amend certain class exemptions to reflect the Department's experience with such exemptions and the evolution of the financial marketplace. In this regard, the Department notes that many of the reasons for amending class exemptions under ERISA are equally applicable under FERSA. The Department also notes that not all such amendments are relevant for purposes of FERSA.

Accordingly, based on its belief that the amendments adopted or to be adopted in the future, with respect to the Class Exemptions, pursuant to section 408(a) of ERISA may be relevant and appropriate for purposes of section 8477(c)(2), the Department has decided to propose an amendment to section II of PTE T88-1. The amendment would modify PTE T88-1 to include, for purposes of applying the Class Exemptions to the prohibitions of section 8477(c)(2) of FERSA, any amendments of the Class Exemptions which are granted pursuant to section 408(a) of ERISA unless the Department expressly determines, as part of the proceeding to amend the class exemption under consideration, that the amendments shall not apply for FERSA purposes.⁴

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption from the prohibitions of section 8477(c)(2) of FERSA, pursuant to section 8477(c)(3) of FERSA, does not relieve a fiduciary from any other provisions of FERSA, including but not limited to any prohibited transaction provisions to which the exemption does not apply, and the general fiduciary responsibility provisions of section 8477(b) of FERSA. Among other things, this section requires a fiduciary to discharge his duties respecting the Fund solely in the interest of participants and beneficiaries

and in a prudent manner in accordance with section 8477(b)(1)(B) of FERSA.

(2) Before an exemption may be granted under section 8477(c)(3) of FERSA, the Department must find that the exemption is administratively feasible, in the interests of the Fund and its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the Fund.

(3) The proposed amendment, if adopted, will be supplemental to, and not in derogation of, any other provisions of FERSA.

(4) The fact that a transaction is subject to an administrative exemption pursuant to section 8477(c)(3) of FERSA is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) The Class Exemptions are applicable to particular transactions only if the conditions specified in the particular exemption are satisfied.

(6) The Department's record with respect to any amendment to a class exemption, including, but not limited to, applications for such amendment, notices of the proposal of the amendment, public comments received by the Department with respect to such proposals, testimony which was part of any public hearing held with regard to any of the amendments and notices of the granting of the amendments, shall, together with any public comments in response to this Notice and any testimony which may be made part of any public hearing held with regard to this Notice, constitute the record for purposes of this proposed adoption of the amendment.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed amendment. Comments received will be available for public inspection with the referenced application at the above address.

Proposed Amendment

Under section 8477(c)(3) of FERSA and in accordance with the procedures set forth in 29 CFR part 2570, subpart B, the Department proposes to amend PTE T88-1 as set forth below:

* * * * *

¹ The following class exemptions were adopted in Prohibited Transaction Exemption T88-1: PTE 75-1 (40 FR 50845, October 31, 1975), exempting certain classes of transactions involving employee benefit plans and certain broker-dealers, reporting dealers and banks; PTE 78-19 (43 FR 59915, December 22, 1978), exempting certain transactions involving insurance company pooled separate accounts; PTE 80-26 (45 FR 28545, April 29, 1980, technically corrected at 45 FR 35040, May 23, 1980), exempting certain interest free loans to employee benefit plans; PTE 80-51 (45 FR 49708, July 25, 1980, technically corrected at 45 FR 52949, August 8, 1980), exempting certain transactions involving bank collective investment funds; PTE 82-63 (47 FR 14804, April 6, 1982, technically corrected at 47 FR 16437, April 16, 1982) exempting certain payments of compensation to plan fiduciaries for the provision of securities lending services; and PTE 86-128 (51 FR 41686, November 18, 1986, amended at 52 FR 8676, March 19, 1987), exempting certain securities transactions involving employee benefit plans and broker-dealers.

² In this regard, for example, see PTE 90-1 (55 FR 2891 January 29, 1990) which amended PTE 78-19.

³ For applications filed prior to September 10, 1990, the procedures for exemption applications were set forth in ERISA Procedure 75-1 (40 FR 18471 (April 28, 1975)).

⁴ The Department notes that PTE T88-1 adopted the Class Exemptions only to the extent that they provide exemptive relief from the restrictions of section 406(b) of ERISA or subsections thereunder, which are parallel to those of section 8477(c)(2) of FERSA. Therefore, an amendment to a Class Exemption will be applicable with respect to FERSA only to the extent that the amendment relates to the provision of exemptive relief from the restrictions of section 406(b) of ERISA.

II. Specific Terms

For purposes of applying the Class Exemptions to the prohibitions of section 8477(c)(2) of FERSA, (1) Any amendment to one of the Class Exemptions adopted pursuant to section 408(a) of ERISA and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32736, 32847, August 10, 1990), relating to the relief provided from the prohibitions of section 406(b) of ERISA or subsections thereunder, shall be deemed to apply for purposes of FERSA, unless the Department expressly determines, as part of the proceeding to amend such class exemption, that the amendment is not applicable with respect to the Fund. (2) Any reference in the Class Exemptions to "section 406", "section 406 of the Act", "section 406(b)" or "section 406(b) of the Act" shall be deemed to apply to section 8477(c)(2) of FERSA. Reference to subsections of section 406(b) of ERISA shall be deemed to apply to the corresponding subsection of section 8477(c)(2) of FERSA. Thus, reference to "section 406(b)(1)" shall mean section 8477(c)(2)(A) of FERSA; reference to "section 406(b)(2)" shall mean section 8477(c)(2)(B) of FERSA; and reference to "section 406(b)(3)" shall mean section 8477(c)(2)(C) of FERSA. (3) The term "fiduciary" as used in the Class Exemptions shall be construed to mean "fiduciary" as defined in section 8477(a)(3) of FERSA. (4) The terms "employee benefit plan(s)" and "plan(s)" shall be construed to mean "Thrift Savings Fund" as established under section 8437 of FERSA. (5) The term, "party in interest" shall be construed to mean "party in interest" as defined in section 8477(a)(4) of FERSA. (6) Reference in the Class Exemptions to "section 502(i) of the Act" shall be deemed to apply to section 8477(e)(1)(B) of FERSA. (7) References in the Class Exemptions to "subsections (a)(2) and (b) of section 504 of the Act" shall be deemed to apply to section 8478a of FERSA. (8) References in the Class Exemptions to section 4975 of the Internal Revenue Code (the Code) or subsections thereunder are not applicable with respect to the Fund, pursuant to sections 4975(g) and 414(d) of the Code. (9) For purposes of section I(b)(2) of PTE 86-128, the term "relative [as defined in section 3(15) of ERISA]" shall mean any spouse, ancestor, lineal descendant, or spouse of a lineal descendant. (10) For purposes of PTE 78-19 and PTE 80-51, the phrase "by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act", shall mean "by reason of a relationship to a service

provider described in section 8477(a)(4)(F), (G), (H), (I) or (J) of FERSA".

Signed at Washington, DC this 24th day of May, 1991.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91-13008 Filed 5-31-91; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 04008989]

Envirocare of Utah, Inc.; Intent to Prepare a Draft Environmental Impact Statement

1. Description of Proposed Action—Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received, by letter dated April 26, 1991, a revised application, environmental report and safety analysis report from Envirocare of Utah, Inc., for a license to receive, store, and dispose of uranium and thorium byproduct material (as defined in section 11e.(2) of the Atomic Energy Act, as amended) received from other persons, at a site near Clive, Tooele County, Utah.

The applicant proposes to dispose of high-volume, low-activity section 11e.(2) byproduct material received in bulk by rail and truck. The material will be placed in earthen disposal cells in lifts and covered with earth and rock. The applicant proposes to conduct operations on a site where the applicant currently disposes of Naturally Occurring Radioactive Material (NORM) under license from the Utah Department of Health, Bureau of Radiation Control.

The State of Utah recently was granted an amended agreement, pursuant to section 274b. of the Atomic Energy Act, to expand its regulatory authority to include the disposal of low-level radioactive waste. Under this agreement, the State has licensed Envirocare to dispose of low-level waste at the Clive, Utah site, pending fulfillment of a number of technical requirements stipulated in Ground Water Quality Discharge Permit No. UGW 450005, issued by the Executive Secretary of the Utah Water Pollution Control Committee. The authority does not, however, include authority to regulate the disposal of section 11e.(2) byproduct material. Regulatory authority for the disposal of section 11e.(2) byproduct material in the State of

Utah remains with the Nuclear Regulatory Commission (NRC).

2. Alternatives—The principal alternatives currently planned to be considered in the preparation of a draft statement include alternative siting of the facility, alternative design and operation, acceptance of additional radioactive waste, and the alternative of no licensing action.

3. Scoping Process—The scoping process will consist of the solicitation of comments on the scope of the proposed environmental impact statement by interested parties. Comments from the public and all interested government agencies are invited. Copies of this notice will be mailed to all affected Federal, State, and local agencies, and other interested persons. Written comments concerning the scope of the proposed statement will be accepted through July 15, 1991.

4. Document Availability—The applicant's Environmental Report and Application and any subsequent documents will be available for inspection and copying at the Public Document Room, 2120 L Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Sandra L. Wastler, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-0582.

Dated at Rockville, Maryland, this 28th day of May 1991.

For the Nuclear Regulatory Commission.

John J. Surmeier,

Chief, Uranium Recovery Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Materials Safety and Safeguards, NRC.

[FR Doc. 91-13028 Filed 5-31-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

Consumers Power Company (CPCo, the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes the operation of the Big Rock Point Plant (the facility) at steady-state reactor power levels not in excess of 240 megawatts thermal (rated power). The facility consists of one boiling water reactor located at the licensee's site in Charlevoix County, Michigan. The license provides, among other things, that it is subject to all rules, regulations

and Orders of the Nuclear Regulatory Commission (Commission) now or hereafter in effect.

II

Section 55.45(b)(2)(ii) of 10 CFR part 55 requires that an application for use of a simulation facility be submitted not later than 42 months after the effective date of the part 55 rule; that is, by November 26, 1990. Further requirements of 10 CFR 55.45(b)(2)(ii) state that the application be submitted in accordance with paragraph (b)(4)(i) of the same section which requires the application to include "(C) a description of the performance tests as part of the application, and the results of such tests."

By letter dated May 20, 1991, the licensee requested a schedular exemption to delay submittal of the performance test requirements until September 27, 1991.

Consumers Power Company has submitted a Big Rock Point simulation facility application (excepting the performance tests) in a letter dated June 29, 1990, and revised in a letter dated November 14, 1990. The original application reflected a simulation facility consisting of five parts: (1) A full scale static mock-up; (2) partial task enhancements; (3) use of the actual plant; (4) a plant walk-through; and (5) the continued use of the Dresden full scope simulator. Some of the partial task enhancements were to be accomplished by the installation of a PC-based work station that would model the Big Rock Point reactor core and primary system hydraulics. The Commission previously granted an exemption dated September 10, 1990, from the schedular requirements of 10 CFR 55.45(b)(2)(ii) for Big Rock Point until May 26, 1991.

The application was subsequently revised to reflect a simulation facility consisting of two parts: (1) Plant walk-throughs; and (2) use of an expanded limited scope simulator (LSS). The proposed capabilities of the limited scope simulator have been expanded significantly beyond those proposed in the original submittal. Most significantly, the licensee changed the original specification for the use of two Compaq 80386 computers to require a single Taurus V860 minicomputer. The new computer provides capacity for 2400 input/output (I/O) points, compared to the 72 I/O points specified in the original simulation facility application.

Contractual agreements between the licensee and S-3 (formerly Link-Miles Simulation Corporation) reflected delivery of the RETACT (Real-Time Advanced Core and Thermohydraulic

Code) work station during November 1990, with acceptance testing to be completed during January 1991. However, delivery of the RETACT work station was not made until December 1990, with acceptance testing completed on April 12, 1991. Simulation Associates Incorporated (SAI) provided software development to support the expanded simulation capabilities of the LSS. The Big Rock Point Engineering staff has modified the original RETACT computer code to ensure compatibility with the software provided by SAI to permit the RETACT work station to operate the simulator hardware.

A September 27, 1991, freeze date has been selected as an appropriate extension for this exemption. "A description of the performance test as part of the application and the results of such test," as required by 10 CFR 55.45(b)(4)(i)(C), will be submitted by September 27, 1991, and will reflect the stage of LSS development on that date.

A timing exemption until September 27, 1991, is appropriate for the Big Rock Point Simulation Facility because:

(1) Extensive manufacturing and contract delivery delays have occurred. These delays have impacted testing of control logic variables for the Phase I instruments and controls of the LSS, as described in the licensee's June 29, 1990, simulation facility application.

(2) Big Rock Point has demonstrated a good faith effort to meet the previous commitments by:

(a) Expanding the capability of the LSS as soon as appropriate hardware became available.

(b) Attempting to provide, as soon as achievable, a means of conducting an operating test utilizing the same criteria as any certified simulator.

(c) Meeting all applicable dates up to the present in a timely fashion.

(d) Attempting to meet the May 26, 1991, submittal date while continuing to enhance the Big Rock Point Simulation Facility.

(3) An exemption provides adequate time for testing of the enhanced scope of the Big Rock Point Simulation Facility.

(4) It takes into consideration paragraph 55.45(b)(3)(i), which requires that facility licensee applicants allow 180 days before the date for conducting a Big Rock Point operating test. The next operating test at Big Rock Point is scheduled for April 1992.

Based on the above, the staff has determined that the schedule proposed by the licensee for submittal of the performance test requirements of its application is acceptable.

III

The Commission has determined that pursuant to 10 CFR 55.11, an exemption is authorized by law and will not endanger life or property and is otherwise in the public interest. Furthermore, the Commission has determined pursuant to 10 CFR 50.12(a) that special circumstances of 10 CFR 50.12(a)(2)(v) are applicable in that an exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. This exemption grants a temporary relief period of ten months from the November, 1990 date for submittal of part of the Big Rock Point application for use of the simulation facility. Good faith efforts to comply with the regulation were made as follows:

(1) Immediately following publication of the new part 55 rule, Big Rock Point joined with three other facilities to form the Utility Simulation Facility Group (USFG).

(2) During the development of the plan, the USFG interacted with NRC in meetings on September 15, and 16, 1987 and December 7, 1987, to obtain comments and understandings.

(3) A final USFG document was issued on April 5, 1988, that provided "Guidance for the Development of a Simulation Facility to Meet the Requirements of 10 CFR 55.45."

(4) Consumers Power Company submitted, by letter dated May 26, 1988, a Big Rock Point Plant specific Simulation Facility Plan that incorporated and reflected the USFG guidance document plans.

(5) NRC letter dated April 10, 1989, provided comments to the licensee's May 26, 1988, Simulation Facility Plan. The NRC comments indicated that the licensee would probably not be successful in justifying continued use of the Dresden simulator, even if they performed "the research and analysis required to support" their position. The letter states, "the major physical fidelity deviations expected to exist between the Big Rock Point control room and the Dresden simulator are not likely to be sustained for use by such an analysis."

(6) Consumers Power Company met with NRC on May 9, 1989, to discuss NRC comments regarding their proposal, and the need to apply for exemption since resolution of NRC comments seemed to require a plant-specific simulator.

(7) NRC letter dated June 12, 1989, documented the May 9, 1989, meeting and summarized the conclusion as

follows: "It was also emphasized that if a land-specific simulator would not be available, Consumers Power Company was to provide a program with the submittal on how the NRC would evaluate the license students."

(8) On September 7, 1989, Consumers, Power Company met with NRC to present a plan that specified how the NRC would evaluate Big Rock Point operators, using Dresden controls with Big Rock Point specific labels, panel overlays, and other enhancements. This approach was to be combined with us of the actual plant and a commitment to develop a full-scale site mock-up of the Big Rock Point control room. The licensee expressed concern that an analysis to identify deviations and justify the differences between the Dresden simulator and Big Rock Point control room could be cost prohibitive.

(9) NRC letter dated October 2, 1989, documented the September 7, 1989, meeting and summarized the NRC staff position as follows: "The staff indicated that the fidelity issue can be addressed by other techniques with an analysis of any exceptions or deviations. These other techniques would model Big Rock Point processes to compensate for the Dresden simulator difference. The plan should be packaged as close as possible to the rule."

(10) Working meetings and telephone conference calls held with NRC which included a meeting on October 12, 1989; a conference call on October 25, 1989, and a meeting on November 13, 1989, identified alternative courses of action in lieu of spending an estimated additional one million dollars on an analysis that offered little in return except justification for doing what was already proposed in the docketed simulation facility plan.

(11) On December 19, 1989, a letter of intent with a simulator vendor was signed to purchase a work station that provides a real-time thermohydraulic model of the Big Rock Point reactor core and primary system.

(12) During December 1989, and January 1990, methodology was developed for a control manipulation analysis that would evaluate operator actions to identify which part task simulation devices and were appropriate to be included in Big Rock Point plant-specific limited scope simulator.

(13) In December 1989, January and February 1990, construction of the Big Rock Point plant-specific mock-up and limited scope simulator began. Software development for the work station was also initiated.

(14) On February 27, 1990, Consumers Power Company met with NRC to

present a revised approach for the Big Rock Point Plant Simulation Facility. In the meeting, NRC expressed concern that it was important for Consumers Power Company to submit as exemption request as soon as possible if the licensee indentified that timing requirements specified by 10 CFR 55.44(2)(ii) could not be met.

(15) The licensee submitted a simulation facility application (excepting the performance tests) on June 29, 1990.

(16) In July 1990, the licensee expanded the scope of the simulation facility in incorporating a Taurus V850 computer system.

(17) The licensee met with NRC on August 1, 1990, to identify the scope of the expansion of the LSS and to describe how the simulator would be utilized to conduct simulator examinations.

(18) The licensee met with NRC on November 14, 1990 to explain the expansion of the LSS and the attempted upgrade of Phase I to include 477 active instruments and controls by May 26, 1991. A total of 655 active instruments and controls had been incorporated as of April 25, 1991.

(19) On November 14, 1990, the licensee submitted a revised simulation facility application for the purposes of eliminating further use of the Dresden simulator.

(20) The licensee remained in close contract with NRC concerning the progress of the LSS through April 1991.

The Commission hereby grants as exemption for the scheduler requirements of 10 CFR 55.45(b)(2)(ii) for submittal of a description of the performance test and the results of the performance test as part of the submittal of an application for use a simulation facility. The Exemption is effective until September 27, 1991.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment (56 FR 23945).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 24th day of May 1991.

For the Nuclear Regulatory Commission.
Bruce Boger, Director,
Division of Reactor Projects III-IV/V, Office
of Nuclear Reactor Regulation.
[FR Doc. 91-13027 Filed 5-31-91 :84 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-25318]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 24, 1991.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 18, 1991 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Edgewater Development Company, Inc. (31-847)

Edgewater Development Company, Inc. ("Edgewater"), Nettleton Commons, 323 E. Willow Street, suite 201, Syracuse, New York, 13203-1926, a New York corporation and a holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, has filed an application for an order granting exemption under section 3(a)(1) from all provisions of the Act except section 9(a)(2).

Edgewater is primarily engaged, through subsidiaries and other entities, in developing and investing in small power production facilities. Edgewater states that it is a holding company under section 2(a)(7)(A) of the Act by reason of its control, through a 1% general partnership interest, over Glen Park Associates Limited Partnership ("Glen Park"), a New York limited partnership

that is an "electric public-utility company" within the meaning of the Act.¹ Glen Park owns and operates the three unit 32.6 MW Glen Park Hydroelectric Project ("Project") near Watertown, New York. Glen Park owns no transmission facilities, and the entire output of the Project is sold to Niagara Mohawk Corporation.

Edgewater states that it has no affiliate other than Glen Park which is a public utility company within the meaning of the Act. Edgewater further states that both it and Glen Park are predominantly intrastate in character and carry out their business substantially in New York, their state of organization.

Mercer Companies, Inc. (31-848)

Mercer Companies, Inc. ("Mercer"), 330 Broadway, Albany, New York 12207, a New York corporation and a holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, has filed an application for an order granting exemption under section 3(a)(1) from all provisions of the Act, except section 9(a)(2).

Among other things, Mercer is engaged, through subsidiaries and other entities, in developing and investing in small power production facilities that are qualifying facilities under the Public Utility Regulatory Policies Act of 1978. Mercer states that it is a holding company under section 2(a)(7)(A) of the Act by reason of its control, through a 1% general partnership interest, over Glen Park Associates Limited Partnership ("Glen Park"), a New York limited partnership that is an "electric public-utility company" within the meaning of the Act.² Glen Park owns and operates the three unit 32.6 MW Glen Park Hydroelectric Project ("Project") near Watertown, New York. Glen Park owns no transmission facilities, and the entire output of the Project is sold to Niagara Mohawk Corporation.

Mercer states that it has no affiliate other than Glen Park which is a public utility company within the meaning of the Act. Mercer further states that both it and Glen Park are predominantly intrastate in character and carry out

their business substantially in New York, their state of organization.

Consolidated Natural Gas Company, et al. (70-7845)

Consolidated Natural Gas Company ("CNG"), a registered holding company, and its wholly-owned subsidiary, CNG Energy Company ("CNG Energy"), both located at CNG Tower, Pittsburgh, Pennsylvania 15222-3199, have filed an application-declaration with this Commission under sections 6(a), 7, 9(a), 10, and 12 of the Act and rules 43 and 45 thereunder.

CNG and CNG Energy request authorization for CNG Energy, through its Natural Gas Vehicle Division ("NGV Division"), to: (1) Buy from suppliers and resell or lease to customers, equipment necessary to transform vehicles from gasoline to natural gas and/or combined natural gas and gasoline operation ("Gas Conversion Equipment"); (2) install and/or maintain Gas Conversion Equipment on customer vehicles and provide training in the use thereof; (3) design, construct, own, lease, sell and/or maintain refueling stations or mobile refueling operations for the refueling of natural gas vehicles and provide training in the use thereof; (4) enter into joint ventures with companies or individuals owning service stations to engage in the activities described in (1) through (3), provided that CNG Energy will not acquire a general voting interest equal to or in excess of 10% of the total general voting interests outstanding without further Commission authorization; and (5) market or distribute, at wholesale and/or retail, certain types of equipment other than on-the-road vehicles that are in the early stages of utilizing natural gas as a fuel. CNG also proposes to provide CNG Energy with up to \$5 million in funds, through December 31, 1995, for the above mentioned activities by purchasing additional shares of CNG Energy common stock, \$1,000 par value per share ("Common Stock"), and/or by making long-term loans to CNG Energy. CNG Energy currently has 112,500 shares of authorized Common Stock, of which 9,640 shares have been issued and are held by CNG. Long-term loans to CNG Energy would be made pursuant to terms and conditions similar to those authorized by order dated June 29, 1990 (HCAR No. 25110) relating to intrasystem financing for 1990-1991.

Long-term loans to CNG Energy would be evidenced by the issuance of long-term non-negotiable notes ("Notes") by CNG Energy to CNG. The Notes will mature over a period of time, not in excess of 30 years, to be determined by

the officers of CNG, and will bear interest predicated on and equal to the effective cost of money to CNG obtained through the most recent of its long-term debt financings. In the event that CNG does not issue long-term debt during the period ending December 31, 1995, the proceeds of which are allocable to loans made hereunder, long-term borrowing rates will be tied to the Salomon Brothers indicative rate for comparable debt issuances published in Salomon Brothers, Inc. Bond Market Roundup on the date nearest to the time of takedown. Such rate will be adjusted to match CNG's cost of borrowing if CNG subsequently issues long-term debt within one year of the date of takedown. Should CNG not issue long-term debt during the subsequent twelve-month period, the proceeds of which are allocable to loans made hereunder, the indicative rate at the time of takedown will be used for the life of the Notes.

CNG will obtain the funds required to provide the necessary funds to CNG Energy through internal cash generation, issuance of long-term debt securities, borrowings under a credit agreement or through such other authorizations approved or to be approved by the Commission.

NGV Division will conduct its business in states having service areas of local distribution companies ("LDCs") of the CNG system and of nonassociate LDCs which receive or purchase gas from the CNG system. NGV Division will initially conduct its activities in Ohio, Pennsylvania, West Virginia and Virginia, states in which CNG's LDCs are located, and in New York, New Jersey, Maryland and the District of Columbia, areas in which nonassociate LDCs acquire gas from the CNG system. NGV Division's primary prospective customers are transit authorities, government agencies, school districts and private companies which operate fleets of automobiles, trucks and/or buses. CNG and CNG Energy estimate that there are approximately 1.1 million fleet vehicles currently located within the CNG system's retail and wholesale distribution areas. They also anticipate that some private individuals in the CNG System's distribution areas may wish to convert their personal vehicles to natural gas.

CNG Energy has no full-time employees and obtains accounting, credit, financial, management, operating, technical and clerical support from Consolidated Natural Gas Service Company, Inc. ("CNG Service"), CNG's service company subsidiary, at cost and under a written service agreement. Certain of these services may also be

¹ Mercer Companies, Inc., which owns the remaining 1% general partnership interest in Glen Park, has also filed an application in File No. 31-848, *infra*, for an order granting exemption under section 3(a)(1) from all provisions of the Act, except section 9(a)(2).

² Edgewater Development Company, which owns the remaining 1% general partnership interest in Glen Park, has also filed an application in File No. 31-847, *supra*, for an order granting exemption under section 3(a)(1) from all provisions of the Act, except section 9(a)(2).

provided by CNG subsidiaries other than CNG Service, at cost, under service agreements similar to the service contracts between CNG Service and other CNG system companies. In addition, NGV Division may hire independent contractors to install and maintain Gas Conversion Equipment and construct refueling stations.

CNG and CNG Energy believe that section 2(b) of the Gas Related Activity Act of 1990, Public Law 101-572 (November 15, 1990) ("GRAA") applies to the proposed activities of NGV Division.

GPU Nuclear Corporation (70-7847)

GPU Nuclear Corporation, 1 Upper Pond Road, Parsippany, New Jersey 07054 ("GPU Nuclear"), a subsidiary of General Public Utility Corporation, 100 Interpact Parkway, Parsippany, New Jersey 07054 ("GPU"), a registered holding company, has filed an application under sections 9(a) and 10 of the Act.

GPU Nuclear owns a centralized computer system known as the Nuclear Employee Data System ("NEDS") that includes a software database containing information on over 23,000 transient nuclear workers' qualifications for access to nuclear sites in accordance with federal regulations and nuclear industry standards. GPU Nuclear intends to use NEDS in establishing the qualifications of transient workers for access to GPU system nuclear sites.

GPU Nuclear now proposes to grant, from time-to-time through December 31, 2001, to nonassociate companies and to contractors and organizations associated with the nuclear industry, non-exclusive, non-transferable licenses to access, receive, update and use NEDS for a monthly licensing fee to be negotiated with the prospective licensees. GPU Nuclear anticipates that its total investment of capital or employees' time expended and the total revenues derived, in connection with the development, marketing and servicing of NEDS licenses through December 31, 1996, will not exceed \$3 million and \$5 million, respectively.

Consolidated Natural Gas Company, et al. (70-7855)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, CNG Tower, Pittsburgh, Pennsylvania 15222-3199, and its wholly owned nonutility subsidiary companies, CNG Research Company ("Research") and Consolidated Natural Gas Service Company, Inc. ("Service"), both located at CNG Tower, Pittsburgh, Pennsylvania 15222-3199; CNG Coal Company ("CNG Coal"), CNG Producing Company

("Producing"), and its subsidiary CNG Pipeline Company ("Pipeline"), CNG Tower, 1450 Poydras Street, New Orleans, Louisiana 70112-6000; CNG Transmission Corporation ("Transmission"), 445 West Main Street, Clarksburg, West Virginia 26301; and Consolidated's wholly owned public-utility subsidiary companies, The Peoples Natural Gas Company ("Peoples"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199; The East Ohio Gas Company ("East Ohio"), 1717 East Ninth Street, Cleveland, Ohio 44115; The River Gas Company ("River Gas"), 324 Fourth Street, Marietta, Ohio 45750; Virginia Natural Gas, Inc. ("Virginia Gas"), 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23501-3488; Hope Gas, Inc. ("Hope Gas") P.O. Box 2868 Clarksburg, West Virginia 26302-2868; and West Ohio Gas Company ("West Ohio"), 319 West Market Street, Lima Ohio 45802 ("Subsidiaries"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 42, 43, 45 and 50(a)(5) thereunder.

Consolidated proposes to issue and sell commercial paper in the form of short-term bearer notes, pursuant to an exception from competitive bidding, in an aggregate principal amount not to exceed \$600 million outstanding at any one time, from time-to-time through June 30, 1992 ("Commercial Paper"). Such Commercial Paper may be domestic commercial paper ("Domestic Paper") and/or European commercial paper ("Euro Paper"). Domestic Paper will have varying maturities of not more than 270 days and Euro Paper will have maturities from 7 to 183 days.

To the extent that it becomes impractical to sell the Commercial Paper due to market conditions or otherwise, Consolidated proposes to issue and sell up to \$450 million unsecured short-term notes to banks through June 30, 1992 ("Notes"). The Notes will mature in not more than one year, will be prepayable in whole or part at any time, and will bear interest at a rate not to exceed the prime commercial rate of interest of the lending bank in effect on the date of each borrowing.

It is also proposed that through June 30, 1992, Consolidated provide financing to the Subsidiaries in an aggregate amount not exceeding \$986 million in the form of open account advances, long-term loans and/or capital stock purchases. Individual Subsidiary financing by Consolidated would not exceed the following amounts: (1) Transmission, \$485 million; (2) East Ohio \$230 million; (3) Virginia Gas, \$110 million; (4) Peoples, \$60 million; (5) Producing \$50 million; (6) Hope Gas, \$15

million; (7) West Ohio, \$15 million; (8) Service, \$10 million; (9) CNG Coal, \$5 million; and (11) Research \$1 million.

Open account advances ("Advances") may be made, repaid and remade and all such Advances will be repaid within one year from the date of the first Advance to the borrowing Subsidiary with interest at the same effective rate of interest as Consolidated's weighted average effective rate of commercial paper and/or revolving credit borrowings. If no such borrowings are outstanding, the interest rate shall be predicated on the Federal Funds' effective rate of interest as quoted by the Federal Reserve Bank of New York. Advances will be made through the CNG System money pool authorized under a Commission order dated June 12, 1986 (NCAR No. 24128).

Long-term loans will mature over a period of time not in excess of 30 years, with the interest rate predicated on and substantially equal to the effective cost of money to Consolidated obtained through its then most recent long-term debt financing. In the event Consolidated does not issue long-term debt between April 30, 1991 and June 30, 1992, long-term borrowings of Subsidiaries will be tied to the Salomon Brothers Inc. Bond Market Roundup dated nearest to the time of first takedown. Such rate will be adjusted to match Consolidated's cost of borrowing if Consolidated subsequently issues long-term debt within one year of the date of first takedown. Should Consolidated not issue long-term debt during the subsequent year period, the indicative rate at the time of first takedown will be used for the life of the security.

Capital stock will be purchased from the Subsidiaries at its par value (book value in the case of Virginia Gas). Capital stock transactions between Consolidated and its utility Subsidiaries, Hope Gas, Peoples, Virginia Gas, West Ohio Company, East Ohio and River Gas, would occur under an exemption pursuant to rule 52 and are not part of the authorization requested herein.

Producing proposes from time to time through June 30, 1992, to provide to Pipeline up to an aggregate of \$1 million of financing through short-term loans in the form of open account advances and/or long-term loans evidenced by non-negotiable notes (documented by book entry only) and/or the purchase of up to 10,000 shares of common stock, \$100 par value, of Pipeline. The open account advances and long-term loan will bear interest at rates equal to the cost of money to Producing through its borrowings from Consolidated.

Consolidated also proposes to increase any Subsidiary's authorized common stock as needed to accommodate proposed stock sales and to provide for future issues, any such increase being limited to a number of shares calculated by dividing the aggregate financing proposed for such Subsidiary in the application-declaration by the par value (book value in the case of Virginia Gas) of such Subsidiary's common stock rounded up to the nearest hundred.

It is also proposed that Transmission, Research and CNG Coal effect a one for one hundred reverse stock split, resulting in an increase in the par value of their respective common stocks from \$100 to \$10,000, in order to reduce state franchise taxes. Further, Producing requests authority to purchase and retire up to 5,000 shares of its common stock, \$10,000 par value, from Consolidated so that Producing's debt to equity ratio would resemble more closely that of Consolidated.

The Connecticut Light & Power Company, et al. (70-7675)

The Connecticut Light & Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 (collectively, "Applicants"), each an electric public-utility subsidiary of Northeast Utilities, a registered holding company, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(d) of the Act and rules 44 and 50(a)(5) thereunder.

By orders dated December 30, 1981 and May 19, 1982 (HCAR Nos. 22342 and 22501, respectively), the Commission authorized, in relevant part: (1) The formation of the Niantic Bay Fuel Trust ("Trust") for the purpose of financing the acquisition of nuclear fuel under a Trust Agreement, dated as of January 4, 1982, between the Connecticut Bank and Trust Company, as trustor, Bankers Trust Company as trustee ("Trustee"), and CL&P, WMECO and The Hartford Electric Light Company,³ as beneficiaries; (2) the assignment of certain nuclear fuel and nuclear fuel contracts; and (3) financing for acquisition of nuclear fuel. The Commission authorized financing of the nuclear fuel through the issuance by the Trust of intermediate term notes ("ITNs") in an aggregate principal amount not to exceed \$300 million outstanding at any one time. In addition, the Commission authorized financing

through the sale of commercial paper notes ("Commercial Paper"), backed by an irrevocable master letter of credit ("LOC") issued by The First National Bank of Boston ("FNBB"), and borrowings under revolving Credit Agreement, dated as of January 4, 1982, between the Trustee and FNBB, in a combined aggregate principal amount not to exceed \$230 million. The Trustee has entered into a \$230 million revolving credit facility with FNBB ("FNBB Credit Facility") that includes an LOC issued by FNBB which backs the Trust's Commercial Paper.

The Applicants now propose to replace the FNBB Credit Facility and to have the Trustee enter into a new \$230 million revolving credit facility ("Facility") with a syndicate of banks ("Banks"), with The First National Bank of Chicago ("FNB-Chicago") serving as agent. The initial term of the Facility will be three years, which may be extended with the Banks' consent for one-year increments. The Applicants seek authority through December 31, 1998 for borrowings under the Facility.

Under the Facility, each Bank would be severally responsible for making advances ("Ratable Advance") in an amount not to exceed the amount of its commitment, ratably in proportion to the aggregate commitment of all Banks, for an interest period of one, two or three months. The Trustee may also invite selected Banks to make a quote of the rate of interest such Bank would require for a loan ("Competitive Bid Loan") in a stated principal amount and for an identified interest period of 180 days or less.

Each Ratable Advance would bear interest at a rate selected by the Trustee from among the following options: (1) A Eurodollar Rate equal to the sum of the quotient of (a) the rate at which deposits in U.S. dollars are offered by the Agent to first-class banks in the London interbank market two business days prior to the date of the advance, divided by one minus the applicable reserve requirement, if any, plus (b) an increment which shall not exceed 0.50%; (2) a fixed certificate of deposit ("CD") rate equal to the sum of the quotient of (a) the average of the prevailing bid rates quoted to the Agent by three CD dealers for the purchase at face value of CD's of the Agent of like face amount and maturity on the date of the advance, divided by one minus the applicable reserve requirement, plus (b) the applicable assessment rate, plus (c) an increment which shall not exceed 0.875%; or (3) a floating rate ("Floating Rate") equal to the higher of (a) the corporate base rate of the Agent, as

announced from time to time by the Agent, as the same may change from time to time, and (b) a fluctuating interest rate equal for each day of any interest period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers as published for such day, plus 0.50%.

The Applicants seek authority to continue to be able to obtain credit, through December 31, 1998, through the Trust's sale of Commercial Paper, which will no longer be backed by a LOC, and the issuance of ITNs. Commercial Paper will continue to have a stated maturity date no later than 270 days following the date of issuance. The aggregate principal amount of outstanding loans under the Facility and the face value of outstanding Commercial Paper would not at any one time exceed \$230 million. The aggregate outstanding principal amount of the ITNs will not at any one time exceed \$300 million.

The Applicants request that the Commission exempt the issuance and sale of Commercial Paper from the competitive bidding requirements of rule 50 under subsection (a)(5) thereunder.

The Trustee will also enter into an Amendment to the Nuclear Fuel Lease Agreement with the Applicants and an Amendment to the Security Agreement and Assignment of Contracts, each dated as of January 4, 1982, under which FNB-Chicago will act as successor collateral agent.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-13015 Filed 5-31-91; 8:45 am]

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[Rel. No. IC-18166; 812-7631]

Van Kampen Merritt Trust, et al.; Application

May 24, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Van Kampen Merritt Trust (the "Trust"), Van Kampen Merritt Investment Advisory Corp. (the "Adviser"), and Van Kampen Merritt Inc. (the "Distributor").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32),

³ Hartford was merged with and into CL&P on June 30, 1982.

2(a)(35), 18(f), 19(g), 18(i), 22(c), and 22(d) of the 1940 Act and rule 22d-1 thereunder.

SUMMARY OF APPLICATION: Applicants request an exemption from sections 18(f), 19(g), and 18(i) to permit certain open-end management investment companies in the same group of investment companies as the Trust to sell two classes of securities representing interests in the same portfolio of investments. The "Class A Shares" would be subject to a front-end sales load and a rule 12b-1 distribution fee, and the "Class B Shares" would be subject to a contingent deferred sales load ("CDSL") and a higher rule 12b-1 distribution fee. Applicants also request an exemption from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and rule 22d-1 thereunder to permit such investment companies to impose the CDSL and to waive the CDSL in certain cases.

FILING DATE: The application was filed on November 16, 1990, and amendments were filed on February 27, 1991 and on May 15, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 1991, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 1001 Warrenville Road, Lisle, Illinois 60532.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Special Counsel, at (202) 272-3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is an open-end management investment company

registered under the 1940 Act, and the Van Kampen Merritt Short-Term global Income Fund (the "Fund") is a non-diversified series of the Trust. The Adviser serves as the Fund's investment adviser and manager. The Distributor acts as the principal underwriter of the Fund's shares. The Fund presently offers a single class of shares at net asset value plus a front-end sales load, and may spend up to .30 percent of the Fund's aggregate daily net assets pursuant to a distribution plan adopted by the Fund under rule 12b-1 under the 1940 Act.

2. Applicants propose to establish a dual distribution system (the "Dual Distribution System") to enable the Fund to offer investors the option of purchasing shares that would either be subject to a conventional front-end sales load and rule 12b-1 plan payments (the "Front-End Option") or subject to a CDSL and higher rule 12b-1 plan payments (the "Deferred Option").

3. If the requested relief is granted, the Fund will create a new class of shares, designated as the Class B Shares. The currently authorized shares will be designated as the Class A Shares and will continue to be offered. The two classes will each represent interests in the same portfolio of securities of the Fund and will have identical voting, dividend, liquidation, and other rights, terms, and conditions, except as described below.

4. Under the Front-End Option, an investor will purchase Class A Shares at net asset value plus a front-end sales load. The sales load will be subject to reductions for larger purchases, under a combined purchase privilege, under a right of accumulation, or under a letter of intent. The sales load also will be subject to other reductions as set forth in the Fund's prospectus. The Fund expects to continue to spend up to 0.30 percent per year of the average daily net asset value of the Class A Shares pursuant to the Fund's rule 12b-1 distribution plan. The Fund, or the Distributor as agent for the Fund, pays certain financial intermediaries up to .25 percent per year of the average daily net asset value of the Class A Shares maintained in the Fund by such person's customers. The Fund will pay to the Distributor the lesser of the balance of the .30 percent not paid to such financial intermediaries or the amount of the Distributor's actual distribution-related expenses during the year with respect to the Class A Shares.

5. The Deferred Option will permit investors to purchase Class B Shares without a front-end sales load and at the same time permit the Distributor to pay to financial intermediaries a commission

on the sale of the Class B Shares. The Fund may spend up to 1.0 percent per year of the average daily net asset value of the Class B Shares pursuant to the Fund's rule 12b-1 distribution plan. The Fund, or the Distributor as agent for the Fund, will pay certain financial intermediaries up to .25 percent per year of the average daily net asset value of the Class B Shares maintained in the Fund by such person's customers. The Fund will pay to the Distributor the lesser of the balance of the 1.0 percent not paid to such financial intermediaries or the amount of the Distributor's actual distribution-related expenses during the year with respect to the Class B Shares. In addition, proceeds from a redemption of Class B Shares made within a specified period of years of purchase, which will be at least three years but will not exceed seven years, generally will be subject to a CDSL.

6. All Class B Shares of the Fund, other than those purchased through the reinvestment of dividends and distributions, automatically will convert to Class A Shares a certain number of years after the end of the calendar month in which the shareholder's order to purchase was accepted, in the circumstances and subject to the qualifications described below (the "conversion feature"). Such number of years, which will be the same with respect to all Class B Shares of the Fund, will be at least three years but will not exceed eight years. The conversion feature is intended to relieve the holders of Class B Shares from higher rule 12b-1 distribution plan fees after the shares have been outstanding for sufficient time for the Distributor to have been reimbursed for its distribution expenses. Thus, Class A Shares will consist of shares purchased by investors prior to the implementation of the Dual Distribution System, shares purchased pursuant to the Front-End Option, Class B Shares that have converted to Class A Shares, and shares purchased by holders of Class A Shares through the reinvestment of dividends and distributions paid on Class A Shares.

7. Shares purchased through the reinvestment of dividends and distributions paid on Class B Shares will be treated as Class B Shares for purposes of determining the applicable distribution fee. However, for purposes of conversion to Class A Shares, all shares in a shareholder's account that are purchased through the reinvestment of dividends and distributions paid on Class B Shares (and which have not converted to Class A Shares as provided in the following sentence) will be

considered held in a separate sub-account. Each time any Class B Shares in the shareholder's account (other than those in the sub-account) convert to Class A Shares, a proportionate number of Class B Shares in the sub-account also will convert to Class A Shares.

8. The Fund will obtain an opinion of counsel that the assessment of the higher distribution expenses and transfer agency costs and any other special allocations described above with respect to Class B Shares does not result in any dividend or distribution constituting a "preferential dividend" under the Internal Revenue Code of 1986 ("IRC") and that conversion of Class B Shares to Class A Shares does not constitute a taxable event under current federal income tax law. The conversion of Class B Shares to Class A Shares may be suspended if such an opinion is no longer available at the time conversions of Class B Shares would occur. In such an event, shares might continue to be subject to the additional distribution fee for an indefinite period beyond when conversion of the shares would otherwise have occurred.

9. The decision as to whether a particular distribution expenditure or category of distribution expenditures is properly attributable to the sale of a particular class or to the sale of both classes of shares (and thus allocated to each class of shares) will be subject to the review and approval of the Trustees. It is anticipated that all distribution expenditures will be determined to be attributed to the sale of both classes of shares except commission expenses, including interest or carrying charges, related to the sale of the Class B Shares, and trail or maintenance payments, which will be separately calculated with respect to each class.

10. All expenses incurred by the Fund will be borne on a *pro rata* basis by each class based on its percentage of the Fund's net asset value except for the distribution expenses incurred pursuant to the Fund's rule 12b-1 distribution plan and incremental transfer agency costs. Because of the additional expenses that will be borne solely by the Class B Shares, the net income attributable to and the dividends payable on Class B Shares will be lower than the net income attributable to and the dividends payable on Class A Shares. Initially, it is expected that the net asset value of the Class A Shares will be marginally higher than the net asset value of the Class B Shares, and the net asset value per share of the two classes may continue to diverge over time.

11. Class A Shares will be exchangeable for shares of other open-

end investment companies sold subject to a front-end sales load, and for shares of money market funds, distributed by the Distributor and that offer an exchange privilege. In addition, a shareholder of any other open-end investment company sponsored by the Distributor that is sold subject to a front-end sales load and an exchange privilege, or of money market fund shares acquired through an exchange of such shares, will be able to exchange his shares for Class A Shares. Class B Shares will be exchangeable only for shares offered pursuant to a Deferred Option by any other open-end investment company in the Adviser's complex that offers an exchange privilege.

12. The CDSL is expected to range from 3% to 7% on Class B Shares redeemed during the first year after purchase and will be reduced each year over the applicable CDSL period. The CDSL will not be imposed on redemptions of Class B Shares which were purchased more than a specified period of up to seven years (the "CDSL Period") prior to their redemption of Class B Shares derived from the reinvestment of distributions.

Furthermore, no CDSL will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSL period. In determining whether a CDSL is applicable, it will be assumed that a redemption is made first of any Class B Shares derived from reinvestment of dividends and distributions, second of Class B Shares held for a period longer than the CDSL Period, third of Class A Shares in the shareholder's Fund account, and fourth of Class B Shares held for a period not longer than the CDSL Period.

13. The Fund proposes to waive the CDSL on redemptions following the death of an individual Class B Shareholder or an individual who owns Class B Shares with his or her spouse as a joint tenant with right of survivorship if the redemption is made within one year of the death of the shareholder. In addition, the fund may waive the CDSL when a redemption is made in connection with certain distributions from an individual retirement account, a custodial account maintained pursuant to IRC section 403(b)(7), or a qualified pension or profit-sharing plan. Such distributions include a lump-sum or other distribution after the individual attains age 59½ or, in the case of a qualified pension or profit-sharing plan, after termination of employment of the individual after age 55. In addition, the

CDSL may be waived on any redemption which results from the tax-free return of an excess contribution pursuant to IRC sections 408(d)(4) or 408(d)(5), the return of excess deferral amounts under IRC sections 401(k)(8) or 402(g)(2), or from the death or disability of the employee. Also, the CDSL may be waived when a plan qualified under IRC section 401(k) or a participant in such plan exchanges Class B Shares of the Fund for Class B Shares of another fund in the Adviser's complex or when an investor exchanges Class B shares of the Fund for Class B Shares of another fund in the Adviser's complex. If the Fund waives or reduces the CDSL, such waiver or reduction will be uniformly applied to all Class B shareholders.

Applicants' Legal Conclusions

1. Applicants seek an exemption from sections 18(g), 18(f), and 18(i) to the extent the Dual Distribution System may result in a senior security, as defined by section 18(g), the issuance and sale of which would be prohibited by section 18(f), and to the extent the allocation of voting rights under the Dual Distribution System may violate the provisions of section 18(i).

2. Applicants believe that the Dual Distribution System will facilitate the distribution of shares by the Fund and provide investors with a broader choice of methods for financing the purchase of shares. An investor will be able to choose the method of purchasing shares that is most beneficial given the amount of his purchase, the length of time that he expects to hold his shares, and other relevant circumstances. Owners of both classes may be relieved of a portion of the fixed costs normally associated with open-end management, investment companies since such costs will, applicants believe, be spread over a greater number of shares than would otherwise be the case. In addition, the conversion feature will benefit long-term holders of Class B Shares whose shares have been outstanding for enough time for the Distributor to have been reimbursed for its distribution expenses.

3. The Dual Distribution System will not create the potential for the abuses that section 18 of the 1940 Act was designed to redress. The Dual Distribution System will not increase the speculative character of the shares of the Fund and will not involve borrowings. Both Class A and Class B shares will participate *pro rata* in all of the Fund's income and expenses, except for different rule 12b-1 distribution expenses and transfer agency costs. Both classes of shares will be redeemable at all times, and neither

class will have any distribution or liquidation preference with respect to particular assets or any right to require that lapsed dividends be paid before dividends are declared on the other class, and neither class will be protected by any reserve or other account.

Moreover, the proposed allocation of expenses and voting rights relating to the Fund's rule 12b-1 distribution plan is equitable and will not discriminate against either group of shareholders.

4. Applicants also seek an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and rule 22c-1 thereunder to permit the Fund to assess a CDSL on redemptions of Class B Shares and to permit the Fund to waive the CDSL for certain types of redemptions. Applicants believe that the imposition of the CDSL on the Class B Shares of the Fund is fair and in the best interests of the Fund's Shareholders. The proposed Dual Distribution System permits the holders of Class B Shares to have the advantage of greater investment dollars working for them from the time of their purchase than if a sales load were imposed at the time of purchase, as is the case with the Class A Shares.

5. Applicants request that any relief from sections 18(f), 18(g), 18(i), 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and rule 22c-1 apply to any existing or future sub-trust or series of the Trust, or any existing or future registered, open-end investment company, or any existing or future sub-trust or series thereof, that is part of the same group of investment companies, and (i) whose investment adviser is the Adviser or an investment adviser that is a successor to any of the business or operations of the Adviser or is directly or indirectly controlling, controlled by, or under common control with the Adviser (as "control" is defined in section 2(a)(9) of the 1940 Act), (ii) whose principal underwriter is the Distributor, or a principal underwriter that is a successor to any of the business or operations of the Distributor or is directly or indirectly controlling, controlled by, or under common control with the Distributor, (iii) which holds itself out to investors as being related for purposes of investment and investor services, and (iv) whose shares are divided into two classes of securities whose sales load, CDSL, rate of distribution fees, exchange privileges, conversion feature, and differences in voting rights are substantially identical to those applicable to the Fund's Class A Shares and Class B Shares as described in the application. Any such series or investment company will be

subject to each of the conditions contained in the application.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

A. Conditions Relating to the Dual Distribution System

1. The Class A Shares and Class B Shares will represent interests in the same portfolio of investments of the Fund, and be identical in all respects, except as set forth below. The only difference between Class A Shares and Class B Shares will relate solely to (a) the impact of the disproportionate rule 12b-1 distribution plan payments allocated to each of the holders of Class A Shares and Class B Shares of the Fund, the incremental transfer agency costs attributable to the Class B Shares of the Fund resulting from the Deferred Option arrangement, and any other incremental expenses subsequently identified that should be properly allocated to one class of shares which shall be approved by the Commission; (b) the Class B Shares will be sold subject to a CDSL whereas the Class A Shares will be sold subject to a front-end sales load; (c) the fact that each class of shares will vote separately as a class with respect to the Fund's rule 12b-1 distribution plan; (d) different exchange privileges of the Class A Shares and Class B Shares; (e) the fact that only Class B Shares will have a Conversion Feature; and (f) the fact that the designation of each class of shares of the Fund will differ.

2. The Trustees, including a majority of the Trustees who are not interested persons of the Trust within the meaning of section 2(a)(19) of the 1940 Act (the "independent Trustees"), will approve the Dual Distribution System. The minutes of the meetings of the Trustees regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Dual Distribution System will reflect in detail the reasons for the Trustees' determination that the proposed Dual Distribution System is in the best interests of both the Fund and its shareholders.

3. On an ongoing basis, the Trustees, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser

and the Distributor will be responsible for reporting any potential or existing conflicts of which they may be aware to the Trustees. If a conflict arises, the Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered investment company.

4. Any rule 12b-1 plan adopted or amended to permit the assessment of a rule 12b-1 fee on any class of shares which has not had its rule 12b-1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

5. The Trustees will receive quarterly and annual statements complying with paragraph (b)(3)(ii) of rule 12b-1, as it may be amended from time to time. In the statements, only distribution expenditures properly attributable to the sale of a particular class of shares will be used to justify the distribution fee charged to that class. Expenditures not related to the sale of a particular class of shares will not be presented to the Trustees to justify the distribution fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

6. Dividends paid by the Fund with respect to its Class A Shares and Class B Shares, to the extent any dividends are paid, will be calculated in the same manner at the same time on the same day and will be in the same amount, except that distribution fee payments relating to each respective class of shares will be borne exclusively by that class and any incremental transfer agency costs relating to Class B Shares and other expenses determined by the Trustees to be allocated to the Class B Shares will be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes and the proper allocation of expenses between the two classes were reviewed by the expert who rendered a report to the applicants, which report was provided to the staff of the Commission prior to the issuance of this notice, that such methodology and

procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the expert, or an appropriate substitute expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the 1940 Act. The work papers of the expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the Commission staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares, and this representation has been concurred with by the expert in the initial report referred to in condition (7) above and will be concurred with by the expert, or an appropriate substitute expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants will take immediate corrective measures if this representation is not concurred in by the expert or appropriate substitute expert.

9. The prospectus of the Fund will contain a statement to the effect that a salesperson and any other person entitled to receive any portion of a distribution fee may receive different compensation for selling one particular class of shares over another in the Fund.

10. The Distributor will adopt compliance standards, substantially in the form of Exhibit C to the application,

as to when Class A Shares and Class B Shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Fund to agree to conform to such standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees with respect to the Dual Distribution System will be set forth in guidelines which will be furnished to the Trustees.

12. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to all classes of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares separately.

13. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that the Fund may make pursuant to its rule 12b-1 distribution plan in reliance on the exemptive order.

14. In the circumstances and subject to the qualifications described herein, after three but not more than eight years from the date on which a shareholder purchases Class B Shares, such shares will convert into Class A Shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge.

B. Condition Relating to the CDSL

Applicants will comply with the provisions of proposed rule 6c-10 under the 1940 Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), 53 FR 45,275 (1988), as such rule is currently proposed and as it may be repropounded, adopted, or amended by the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-13014 Filed 5-31-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 91-026]

Central Pacific Loran-C Closure

AGENCY: Coast Guard, DOT.

ACTION: Notice; request for comments.

SUMMARY: The Coast Guard proposes early closure of the Central Pacific Loran-C Chain at the end of calendar year 1992 vice operation through 1994 as currently planned. Continued operation of the Central Pacific Chain is not economically justified. Early closure of this Loran-C Chain will save the Coast Guard the cost of operating it for two years which amounts to an estimated 5-6 million dollars.

DATES: Comments must be received on or before August 2, 1991.

ADDRESSES: Comments should be mailed to Commandant (G-LRA-2/3406) (CGD 91-026), U.S. Coast Guard, Washington, DC 20593-0001. Comments will be available for public inspection and copying between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-LRA-2), room 3406, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Commander Richard J. Armstrong, Chief, Radio Aids Management Branch (G-NRN-1), room 1413, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, DC 20593-0001, phone (202) 267-0990.

SUPPLEMENTARY INFORMATION: The Central Pacific Loran-C Chain, in the Hawaiian area, was installed in the mid-60's in response to a Department of Defense requirement. The 1990 edition of the Federal Radionavigation Plan, provides for termination of overseas and Hawaiian Loran-C stations when the Department of Defense requirement for Loran-C ends on December 31, 1994. The new satellite based Global Positioning System may allow the Department of Defense to end its requirement for Loran-C in the Hawaiian area as early as the end of calendar year 1992.

Because of the poor coverage area and limited number of users, the United States Coast Guard's position is that continued operation of the Central Pacific Loran-C Chain past 1992 is not economically justified. The Loran-C system serving the continental U.S., Alaska, and the coastal areas, with the exception of Hawaii, will remain part of the radionavigation mix and not be terminated at the end of 1994.

Comments are requested concerning possible termination of Loran-C service provided by the Central Pacific Loran-C Chain, Rate 4990, in the Hawaiian area, at the end of calendar year 1992, in lieu of the end of calendar year 1994 as is currently planned.

The Coast Guard encourages interested persons to participate by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this Notice (CGD 91-026) and how each comment relates to the proposed action. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

Dated: May 24, 1991.

J. W. Lockwood,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91-13040 Filed 5-31-91; 8:45 am]

BILLING CODE 491-014-M

Federal Aviation Administration

[Summary Notice No. PE-91-19]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Petitions for Exemption received and of dispositions of prior petitions; Correction.

SUMMARY: This action corrects an error with reference to the comment close date to a notice published on Tuesday, May 14, 1991, page 22191 and in the third column. The FAA inadvertently inserted July 3, 1991. Please change the comment close date to read June 3, 1991.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591; telephone (202) 267-9683.

Debbie Swank,

Program Management Staff, AGC-10.

[FR Doc. 91-12990 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-91-21]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 24, 1991.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9683.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on May 23, 1991.

Deborah Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25030.

Petitioner: Pan Am Express, Inc.

Sections of the FAR Affected: 14 CFR 93.123 and 93.129.

Description of Relief Sought: To extend Exemption No. 4777A, as amended, which allows petitioner to conduct 20 operations during 4 of the 5 high-density hours at John F. Kennedy (JFK) International Airport under Separate Access Landing System with aircraft capable of short takeoff and landing on the stubs of runways, with systems and performance capabilities approved by the Administrator and with operating procedures established by the JFK tower. Exemption No. 4777A, as amended, will expire on October 28, 1991.

Docket No.: 26508.

Petitioner: Era Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 135.207.

Description of Relief Sought: To allow petitioner's pilots to operate helicopters under VFR without the pilot having visual surface reference or, at night, visual surface light reference.

Docket No.: 26515.

Petitioner: Era Helicopters.

Sections of the FAR Affected: 14 CFR 43.3(a) and 135.443(b)(3).

Description of Relief Sought: To allow helicopter flightcrews to perform daily checks, or checks occurring at intervals of 10 hours or less, as called out in manufacturers' Service Bulletins or FAA Airworthiness Directives.

Docket No.: 26517.

Petitioner: Era Aviation, Inc.

Sections of the FAR Affected: 14 CFR 133.51.

Description of Relief Sought: To allow petitioner to lease an AS332L Super Puma Helicopter from a Canadian carrier and use this helicopter to support offshore drilling operations off the North Slope of Alaska.

Docket No.: 26527.

Petitioner: James F. Young.

Sections of the FAR Affected: 14 CFR 47.15(b).

Description of Relief Sought: To allow the use of one or two letters following the "N" on a United States registration number.

Docket No.: 2646.

Petitioner: Precision Valley Aviation, Inc., dba Northwest Airlink.

Sections of the FAR Affected: 14 CFR 135.225(e)(1).

Description of Relief Sought: To allow petitioner's pilots to take off under instrument flight rules at any Canadian civil airport listed in its operations specifications when the visibility at that airport is less than 1 statute mile.

Dispositions of Petitions

Docket No.: 22469.

Petitioner: Parks College of St. Louis University.

Sections of the FAR Affected: 14 CFR part 141, appendixes A, C, D, and F.

Description of Relief Sought/Disposition: To extend Exemption No. 3495, as amended, which allows petitioner to train students to a performance standard rather than to minimum flight time requirements, except for solo cross-country flights.

Grant, May 13, 1991, Exemption No. 3495E

Docket No.: 22706.

Petitioner: Bankair Inc.

Sections of the FAR Affected: 14 CFR 135.335(e)(1).

Description of Relief Sought/Disposition: To extend Exemption No. 5090, which allows petitioner's pilots to operate their aircraft from Myrtle Beach Air Force Base and Beaufort Marine Corps Air Station using takeoff visibility minimums, subject to the approval of the appropriate military authority, that are less than 1 mile and are equal to or greater than the landing visibility minimums established for those airfields.

Grant, May 13, 1991, Exemption No. 5090A

Docket No.: 22872.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR 61.157; 121.424; part 61, appendix A; and part 121, appendixes E and F.

Description of Relief Sought/Disposition: To extend Exemption No. 4416, which allows continued authorization for operators to conduct the required preflight inspections using approved advanced pictorial means.

Grant, May 15, 1991, Exemption No. 4416D

Docket No.: 23499.

Petitioner: Lifeline, Inc.

Sections of the FAR Affected: 14 CFR 61.118(a).

Description of Relief Sought/Disposition: To extend Exemption No. 5068, which allows petitioner's private pilots who perform flight services to be reimbursed for their fuel expenses.

Grant, May 15, 1991, Exemption No. 5068A

Docket No.: 23713.

Petitioner: SimuFlite Training International.

Sections of the FAR Affected: 14 CFR 61.56(b)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(d)(2) and (d)(3); 61.67(d)(2); 61.157(d)(1), (d)(2), (e)(1), and (e)(2); part 61, appendix A; part 121, appendix H.

Description of Relief Sought/Disposition: To amend Exemption No. 3931, as amended, which allows petitioner and persons who contract for services from petitioner to use FAA-approved simulators to meet certain training and testing requirements.

Grant, February 28, 1990, Exemption No. 3931E

Docket No.: 24541.

Petitioner: Boeing Commercial Airplanes.

Sections of the FAR Affected: 14 CFR 91.611.

Description of Relief Sought/Disposition: To extend Exemption No. 4467, as amended, which allows petitioner to conduct ferry flights with one engine inoperative on its Boeing-manufactured 707, 720, 727, and 747 airplanes without obtaining a special flight permit.

Grant, May 13, 1991, Exemption No. 4467C

Docket No.: 25748.

Petitioner: Popular Rotorcraft Association.

Sections of the FAR Affected: 14 CFR 91.319(a)(1) and (a)(2).

Description of Relief Sought/Disposition: To allow the establishment of guidelines and the training and rating of pilots in experimental gyroplane aircraft.

Grant, May 13, 1991, Exemption No. 5209A

Docket No.: 25798.

Petitioner: Embry-Riddle Aeronautical University.

Sections of the FAR Affected: 14 CFR 61.71.

Description of Relief Sought/Disposition: To allow the petitioner's students who are enrolled in its part 141 approved commercial pilot certification course to apply for an instrument rating prior to receiving their commercial pilot certificate without meeting the flight experience requirements of § 61.65(e)(1).

Denial, May 13, 1991, Exemption No. 5310

Docket No.: 25950.

Petitioner: Mr. Dagfinn Myrvang.

Sections of the FAR Affected: *4 CFR 61.155(b)(2).

Description of Relief Sought/Disposition: To allow petitioner to qualify for an airline pilot license by receiving credit for simulator evaluation test hours.

Denial, May 13, 1991, Exemption No. 5309

Docket No.: 26340.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 121.409(b)(3), 121.433(c)(1)(iii), and 121.441(a)(1).

Description of Relief Sought/Disposition: To amend Exemption No. 5271 to allow the petitioner to substitute simulator training received by its first officers in combination with a special line check by these first officers, in place of an approved simulator line-oriented flight training period.

Partial Grant, April 30, 1991, Exemption No. 5271A

Docket No.: 26359

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.623(a) and (d), 121.643, and 121.645(e).

Description of Relief Sought/Disposition: To amend Exemption No. 5264 to remove the requirement to comply with the flight and duty requirements in part 121, subpart Q, to operate under the exemption.

Grant, April 30, 1991, Exemption No. 5264A

Docket No.: 26431 [Reprinted Disposition].

Petitioner: Regional Airline Association.

Sections of the FAR Affected: 14 CFR 121.314 and 135.169(d).

Description of Relief Sought/Disposition: To allow continued operation of certain airplanes beyond the March 20, 1991, deadline for compliance with the flammability requirements for cargo and baggage compartment liners.

Grant, March 18, 1991, Exemption No. 5289

Docket No.: 26499.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 108.23(b).

Description of Relief Sought/Disposition: To allow petitioner to accomplish pilot crewmember recurrent security training during one annual session. Since none of the petitioner's pilots have received annual security training since June 1990, compliance

with § 108.23(b) during 1991 would generate a separate trip to recurrent ground school, in lieu of a single visit, for security training.

Grant, May 10, 1991, Exemption No. 5308

Docket No.: 26516.

Petitioner: Northwest Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.433a.

Description of Relief Sought/

Disposition: To allow petitioner an additional 180 days to train its European personnel in the proper handling and carriage of dangerous articles and magnetized materials. The regulations require that ground personnel complete such training within the previous 12 calendar months (by April 1991).

Denial, May 15, 1991, Exemption No. 5311

Docket No.: 26524.

Petitioner: Association of Air Medical Services/Helicopter Association International.

Sections of the FAR Affected: 14 CFR 43.3(a) and (g).

Description of Relief Sought/

Disposition: To allow properly trained personnel to exchange medical oxygen cylinders after such cylinders have been depleted.

Petition Withdrawn, May 14, 1991

[FR Doc. 91-12989 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from the National Railroad Passenger Corporation a request for exemptions from or waivers of compliance with a requirement of Federal rail safety standards. The petition is described below, including the regulatory provisions involved, and the nature of the relief being requested.

National Railroad Passenger Corporation

[Waiver Petition Docket Number H-91-2]

The National Railroad Passenger Corporation (Amtrak) is seeking a 1 year test waiver of compliance from certain sections of the Railroad Power Brakes and Drawbars Regulations, 49 CFR part 232. Amtrak is requesting that it be permitted to extend the clean, oil, test and stencil (COT&S) period from 36 months to 48 months on 50 test cars equipped with 26-C Type Brake Equipment. The test cars are part of the 103 Horizon car fleet built between May 1989 and January 1990. The performance of the test cars will be monitored and each will be given a COT&S at the conclusion of the 48 month period. Amtrak will petition for a permanent extension for all cars equipped with the 26-C Brake Equipment at that time if conditions justify it.

Section 232.17(b)(2) states—"Brake equipment on passenger cars must be clean, repaired, lubricated and tested as often as necessary to maintain it in a safe and suitable condition for service but not less frequently than as required in Standard S-045 in the Manual of Standards and Recommended Practices of the Association of American Railroads (AAR)." Paragraph 2.1.2 of Standard S-045 (AAR Manual section A, part III) currently specifies 36 months for 26-C Type Brake Equipment. The AAR will participate in the test since they control the specification.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H-91-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before July 18, 1991 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications

concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on May 22, 1991.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91-13005 Filed 5-31-91; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 24, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0710.

Form Number: 5500, 5500-C/R, Schedule B (Form 5500), Schedule E (Form 5500), Schedule P (Form 5500).

Type of Review: Revision.

Title: Annual Return/Report of Employee Benefit Plan, Return/Report of Employee Benefit Plan and Associated Schedules.

Description: Forms Listed in item 4 are annual information returns filed by employee benefit plans. The IRS uses this data to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 901,400.

Estimated Burden Hours Per Response/Recordkeeping

	Form 5500 (initial filers)	Form 5500 (all other filers)	Sched. A (Form 5500)
Recordkeeping.....	87 hrs., 3 mins	81 hrs., 19 mins	17 hrs., 28 mins.
Learning about the law or the form.....	8 hrs., 51 mins	8 hrs., 51 mins	28 mins.
Preparing the form.....	13 hrs., 7 mins	13 hrs., 2 mins	1 hr., 42 mins.

	Form 5500 (initial filers)	Form 5500 (all other filers)	Sched. A (Form 5500)
Copying, assembling, and sending the form to IRS.....	48 mins.....	48 mins.....	16 mins.
	Sched. B (Form 5500)	Sched. C (Form 5500)	Sched. E (Form 5500) (non leveraged ESOP)
Recordkeeping.....	33 hrs., 58 mins.....	5 hrs., 16 mins.....	1 hr., 40 mins.
Learning about the law or the form.....	2 hrs., 19 mins.....	18 mins.....	12 mins.
Preparing the form.....	3 hrs., 3 mins.....	23 mins.....	14 mins.
Copying, assembling, and sending the form to IRS.....			
	Sched. E (Form 5500) (leveraged ESOP)	Sched. P (Form 5500)	Sched. SSA (Form 5500)
Recordkeeping.....	10 hrs., 2 mins.....	1 hr., 40 mins.....	6 hrs., 42 mins.
Learning about the law or the form.....	1 hr., 41 mins.....	30 mins.....	12 mins.
Preparing the form.....	1 hr., 6 mins.....	32 mins.....	19 mins.
Copying, assembling, and sending the form to IRS.....			

Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 32,508,310 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.
Lois K. Holland,
Departmental Reports Management Officer.
 [FR Doc. 91-12996 Filed 5-31-91; 8:45 am]
BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

May 24, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0012.
Form Number: CF 3189.
Type of Review: Extension.
Title: Lay Order Application and Approval.

Description: Customs Form 3189 is used to extend the time for merchandise or baggage to remain on a wharf or pier from the allowed five days after a vessel has entered.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 2,400.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,998 hours.

Clearance Officer: Ralph Meyer (202) 566-9182, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
 [FR Doc. 91-12997 Filed 5-31-91; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the

following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Ann Bickoff, Veterans Health Administration (161B3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 535-7407.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before July 3, 1991.

Dated: May 28, 1991.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Former POW (Prisoner of War) Medical Study; Former POW Medical History, VA Form 10-0048, Former Prisoner of War Follow-up, VA Forms 10-20844a-d (NR).

2. The information will be gathered from former POWs to assess the medical

care needs of these veterans. The data will be used to determine the present and future needs of POWs in the areas of disability compensation, health care and rehabilitation.

3. Individuals or households.

4. 9,800 hours.

5. 7 hours; VA Form 10-0048—60 minutes, VA Form 10-20844a(NR)—10 minutes, VA Form 10-20844b(NR)—10 minutes, VA Form 10-20844cU.S.C.—25 minutes, VA Form 10-20844dU.S.C.—15 minutes, Medical Examination—5 hours.

6. Non-recurring.

7. 2,450 respondents.

[FR Doc. 91-12994 Filed 5-31-91; 8:45 am]

BILLING CODE 8320-01-M

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: NOTICE.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. They are being published to provide the public and, in particular, veterans' benefits claimants and their representatives with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library; Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 523-3826.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 12.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters contained in such opinions are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to

assist veterans' benefits claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

O.G.C. Precedent 1-91

Questions presented: a. In the consideration of the payment of a loan guaranty claim would a cramdown reducing the principal debt owed by a debtor approved in a chapter 13 bankruptcy petition affect the claim filed by a holder? b. Is it appropriate to approve additional attorneys fees incurred by a holder in objecting to a cramdown and to permit the lender to include such fees in the eligible indebtedness for purposes of accounting with the holder upon the filing of a claim?

Held: a. Claims under the VA loan guaranty may only be filed after liquidation has occurred or after a conveyance in lieu of liquidation has been approved by VA and completed. At that time, based on the remaining outstanding indebtedness, a claim may be paid. If the bankruptcy action has been completed and the outstanding balance has been reduced in such proceeding, the VA liability would be based on the reduced balance. b. Litigation associated with matters where a mortgagor is seeking a reduction in the outstanding mortgage loan balance is not unique to VA guaranteed loans; however, such litigation is required by VA in order to preserve VA's liability under its guaranty. Attorney fees associated with such litigation thus may be included as part of a veteran's indebtedness in the lender's accounting with VA, provided VA approved such fees in advance.

Effective date: January 8, 1991.

O.G.C. Precedent 2-91

Question presented: Whether VA is required to pay interest on the money that will be paid to lenders due to the technical inaccuracy of the methods used in the past few years to determine "net value" of properties securing VA loans in foreclosure.

Held: No.

Effective date: January 15, 1991.

O.G.C. Precedent 3-91

Questions presented: a. May the Secretary agree to terms imposed by the draft American Housing Trust (AHT) VIII loan sale agreement which will require, as a condition to the sale, that if the master servicer and the trustee fail in their obligations to advance for a shortfall in scheduled monthly interest and principal, VA will make the

advance plus reimbursement of all reasonable expenses incurred by certificate holders in connection with delay? b. May the provision described in question 'a' be added to the existing VHT VI and VHT VII by amendment of the documents for those transactions?

Held: a. Yes, the Secretary, under 38 U.S.C. 1833 and 1820, has authority to agree to this provision. b. Yes, the Secretary, under 38 U.S.C. 1833 and 1820, has authority to enter into such amendments to VHT VI and VHT VII.

Effective date: January 25, 1991.

O.G.C. Precedent 4-91

Questions presented: Has a veteran failed to report for a scheduled examination for purposes of 38 CFR 3.655 if he or she appears but refuses to be examined unless accompanied by a private attorney and allowed to record the evaluation?

Held: Neither the Constitution, the Administrative Procedure Act, nor VA statutes and regulations provide a right to counsel at medical examinations scheduled by VA for evaluation of beneficiaries, including psychiatric evaluation. As, under the relevant constitutional, statutory, and regulatory provisions, there is no "right" to be accompanied by an attorney to this type of agency activity, refusal to participate unless accompanied by an attorney may be considered a failure to report for purposes of VA regulations at 38 CFR 3.655 providing for discontinuance of benefits for failure to report for examination. Similarly, a beneficiary may not insist on using a recording device at a VA medical examination, and refusal to participate due to the absence of such a device may be considered a failure to report for purposes of VA regulations governing termination of benefits.

Effective date: February 13, 1991.

O.G.C. Precedent 5-91

Questions presented: a. Is the amount payable under the provisions of Public Law No. 86-146 to be considered amounts retained by such home from any payments of pension or compensation made to such veteran? b. Are such payments made under Public Law No. 86-146 to be considered collections from any source on behalf of the veteran? c. Can simultaneous payments of the \$700 and the amount payable under the provisions of Public Law No. 86-146 be made? (The change to a \$2.50 per diem payment from the former \$00 per annum effected by Public Law No. 86-625, which was approved July 12, 1960, has no bearing on the discussion herein). d. If the answer to c

is in the negative, can the home, by not making application on behalf of the veteran or withdrawing the application which must be made under 38 U.S.C. 643 be entitled to receive the full payments which can be made under Public Law No. 86-146 for the veteran's care and maintenance?

Held: a. Payments of pension or compensation to an incompetent veteran having neither wife nor child and being furnished domiciliary care in a State Home that is discounted because his estate equals or exceeds \$1500 are to be considered "amounts retained by such Home from any payments of pension or compensation made to such veteran." b. There is no legal objection to the simultaneous payments to the State Home of the \$700 (now \$2.50 per diem) payable under 38 U.S.C. 641(a) and the amount payable under the provisions of Public Law No. 86-146, subject to the reduction provided for in 38 U.S.C. 641(b)(1) c. 38 U.S.C. 643 which provides for the making of an application by a State Home for benefits under 38 U.S.C. 641 is permissive and not mandatory. There is nothing in Public Law No. 86-146 which warrants a departure from this discretionary right exercised by State Homes in making or withdrawing applications for benefits provided by 38 U.S.C. 641.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 23-60, December 8, 1960, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 6-91

Questions presented:

a. Series E savings bonds have been purchased from funds in Personal Funds of Patients (PFOP) Accounts at the request of the patient or his next of kin, or at the discretion of Manager and held for the patient. Upon the death of such a patient, is the disposition of these bonds governed by the provisions of Public Law No. 86-146? b. If the answer to question 'a' is in the affirmative, does the Manager have the authority to redeem such bonds for deposit in PFOP? If not, what disposition should we make of such bonds? c. If bonds are redeemed by the Manager prior to the death of a patient and the proceeds deposited in PFOP to be used for the patient's needs, should the proceeds be considered gratuitous if they can be identified as such or nongratuitous funds? Are the proceeds when so deposited considered to have been deposited by the VA

through the Manager in this instance is acting as Trustee for the patient? In your reply to this question, we should be advised as to the proper disposition to be given to the interest in the proceeds from the bonds. d. Upon admission a patient may have several compensation or pension checks which he has not cashed. If after a reasonable length of time, the patient refuses to cooperate and endorse the checks for deposit in PFOP, it is our practice to return such checks to the Disbursing Office and request the Adjudication Division of the regional office concerned to reissue the checks to the Manager. Would such funds be considered gratuitous benefits under Public Law No. 86-146 in view of the fact that they would have been excluded if the patient had endorsed the check for deposit?

Held: Amounts derived from gratuitous benefits which were originally deposited in PFOP by VA do not lose their identity as to source and nature of deposit, for purposes of Public Law No. 86-146, where withdrawn from PFOP and used to purchase bonds if they are returned to PFOP and remain on deposit at the time of the veteran's death. The interest should not be considered to be subject to disposition in accordance with the provisions of section 3202(d) of title 38, U.S.C., as amended.

Funds represented by unendorsed compensation or pension checks, the amount of which is subsequently paid to the Manager by issuance of new checks and deposited by the Manager in the veteran's PFOP account should be considered "gratuitous benefits deposited by the VA * * * into a PFOP * * * account" within the meaning of that language in Instruction I to Public Law No. 86-146 and, therefore, subject to the provisions of section 3202(d) of title 38, U.S.C. Such a transaction is equivalent to an original institutional award and is, accordingly, clearly within the language and intent of Public Law No. 86-146 and the implementing issue.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 28-60, September 13, 1960, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 7-91

Question presented: Whether a veteran receiving compensation for a service-connected disability and who otherwise would be entitled to pension

based upon the need for aid and attendance may be furnished an invalid lift under the provisions of 38 U.S.C. 617.

Held: A veteran who is adjudicated to be presently eligible for a disability pension based upon the need for regular aid and attendance may be furnished an invalid lift under the provisions of 38 U.S.C. 617, notwithstanding the non-receipt of such pension by reason of the receipt of a greater disability compensation benefit.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 1-61, January 6, 1961, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 8-91

Question Presented: During the period in which a veteran is being or will be furnished medical services in preparation for admission to a hospital, or within which he is receiving post-hospital care, pursuant to Public Law 86-639, as implemented by Circular 10-209, and while he is neither at a VA facility nor traveling to or from such facility under prior authorization and at VA expense: a. If the veteran dies during such period, is VA responsible for the cost of burial, funeral, and transportation expenses as though death occurred while the deceased was properly hospitalized by VA? b. Is VA responsible for the cost of hospital care furnished to such veteran in a non-VA facility as a result of an emergency developing during such period?

Held: VA is not responsible for the cost of burial, funeral, and transportation expenses for a veteran's death occurring during the period in which the veteran was being or was to be furnished medical services for a non-service-connected disability in preparation for the veteran's admission to a VA hospital. Further, in this case, in an emergency, VA is not responsible for the cost of hospital care furnished to such veteran in a non-VA hospital.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 2-61, January 12, 1961, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 9-91

Question presented: Whether, once there was an investment in U.S. Savings Bonds by VA Managers from gratuitous benefits deposited by VA in PFOP accounts, such bonds or the money redeposited in PFOP by VA from a redemption of such bonds should not be considered subject to the decedent distribution provisions of Public Law 86-146 on the premise that there was a change in the character of the gratuitous VA benefits by the act of investing the bonds.

Held: U.S. Savings Bonds in existence at the time of death of a veteran could not be said to be on deposit in a PFOP account, as only money (including checks deposited for collection) may be deposited. Also, bonds are registered in the name of the veteran and belong to the owner's estate upon his death and are subject to distribution according to Department of Treasury regulations. Op. G.C. 28-60 (O.G.C. Precedent 6-91) is reaffirmed.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 10-61, August 4, 1961, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 10-91

Question presented: Whether there is authority for VA to pay PFOP to a veteran's widow recognized under Public Law 85-209, now covered in 38 U.S.C. 103(a).

Held: PFOP deposits may be paid to the spouse qualifying under 38 U.S.C. 103(a).

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 12-61, October 9, 1961, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 11-91

Question presented: Whether volunteers, regular and casual, may be regarded as employees of the government for various purposes.

Held: There is no distinction between regular voluntary employees and casual or occasional voluntary employees for purposes of the application of the Federal Employees Compensation Act. Also, the status of a voluntary employee is not determinative of the application of

the Federal Tort Claims Act to tortious acts committed during the performance of their duties.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 15A-62, December 31, 1962, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 12-91

Question presented: Whether injury sustained by an individual while en route to inactive duty training and adjudicated "service-connected" pursuant to 38 U.S.C. 106(d) may be the basis for reimbursement or payment of such expenses, including those incurred on the day of the accident, where the hospital and medical services were rendered before adjudication of service connection and the award of compensation.

Held: Where an individual has not acquired the necessary duty status but is deemed pursuant to 38 U.S.C. 106(d), as further implemented by 101(24), to have incurred his injury in the active service, payment or reimbursement for unauthorized hospital and medical services furnished for such injury while the individual was not in a duty status may be made, provided other requirements of VA Regulations 6140, *et seq.*, are met, without regard to the fact that adjudication of service connection occurred after the services were rendered. Where the services for such an injury were furnished on or after August 14, 1962—the date of enactment of Public Law 87-583—payment or reimbursement may be made for unauthorized hospital and medical services rendered on the day the injury was sustained, as well as subsequent days, irrespective of the fact that compensation was not payable for the times involved. By a parity or reasoning, these conclusions relate equally to situations where injuries deemed service-connected pursuant to section 106(d) are incurred while returning directly from training duty.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 1-64, May 15, 1964, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 13-91

Question presented: Whether a veteran who has been adjudicated as eligible for increased pension under 38 U.S.C. 521(d) based on need of regular aid and attendance, but who has elected to receive a greater compensation benefit for his service-connected disabilities, may be considered to be in constructive receipt of such pension and entitled to drugs or medicines for his non-service connected disabilities.

Held: A veteran who is adjudicated as presently eligible for increased pension under 38 U.S.C. 521(d) based on need of regular aid and attendance may be furnished drugs or medicines under 38 U.S.C. 612(h), notwithstanding the non-receipt of such pension by reason of the receipt of a greater compensation benefit. Since the furnishing of drugs or medicines will usually be a continuing benefit, the veteran must meet the eligibility requirements for increased pension under 38 U.S.C. 521(d) at all times when drugs or medicines are being furnished under section 612(h).

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 2-65, June 18, 1965, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 14-91

Question presented: Whether appropriated medical care or General Post funds may be expended to provide necessary local transportation for volunteers in Government vehicles (or in commercial vehicles by contractual agreement if Government vehicles are unavailable), or to provide such volunteers with bus tickets, tokens, cash, or transportation expenses when such is necessary.

Held: Appropriated funds may be used for such purposes. Therefore, the question of whether General Post funds may be expended for the same purposes need not be addressed.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 4-65, October 13, 1965, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 15-91

Question presented: May a VA hospital enter into a contract with a

commercial firm to provide guard services?

Held: The proposal to obtain guard services by contracting with a commercial firm cannot be accomplished under the authority of section 213, title 38, U.S.C., or otherwise.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 3-68, August 12, 1968, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 16-91

Question presented: The necessity for parental consent for surgery on a minor veteran and the applicability of State laws on this matter.

Held: In summary, there are many actions which could be done by VA personnel in exercising the inherent power of the Federal Government which, as a matter of policy, are not done. The consent for surgery on a minor veteran is one such area. By complying with State law, VA tends to avoid or minimize criticism and law suits.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 3-70, August 19, 1970, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 17-91

Question presented: a. Whether VA can finance hemodialysis in the home for veterans whose kidney disease is either of service-connected or non-service-connected origin. b. If so, whether VA can authorize Government-owned home dialysis equipment to be installed in a community hospital for the treatment of an eligible veteran and, in exchange for the use of the hospital's facilities and staff in dialyzing the veteran, permit the hospital to dialyze non-veterans when the equipment is not being used for treatment of veterans.

Held: a. Home dialysis may be furnished under the general outpatient care program (section 612(a)) for service-connected conditions; under the post-hospital care provisions of sections 612(f) and 612(g) for non-service-connected conditions; and under the provisions of section 617 for either service-connected or non-service-connected veterans who qualify therefor. b. VA has authority to place

Government-owned home dialysis units in a community hospital with the understanding that the unit may be used for treatment on non-veterans when it is not being used for veterans, pursuant to a revocable license agreement properly setting forth the limitations outlined by the Comptroller General.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 5-70, October 2, 1970, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 18-91

Question presented: Whether the Veterans Administration may require inspection of packages being brought into a Veterans Administration facility.

Held: If the Administrator determines the inspection of packages of those entering a Veterans Administration facility will enable him to carry out his obligations and responsibilities, he has the authority to impose such a condition on those seeking admission to the facility. Such inspection may be to minimize danger to life or property or to prevent contra-indicated materials from reaching patients.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 3-71, February 16, 1971, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 19-91

Question presented: a. Whether VA has authority to have improperly parked automobiles on hospital reservations removed. b. If so, whether VA has authority to have such vehicles impounded and retained until the towing fee is paid either to VA or to the fee contractor engaged for that purpose, assuming such an agreement is proper.

Held: VA has authority to have improperly parked automobiles removed from the reservation, where the motor vehicle regulations adopted at the station are posted so as to constitute notice to those entering. Such removal and retention may be performed by a commercial concern and may properly entail a fee.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 8-71, May 13, 1971, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and

14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 20-91

Question presented: Whether expiration of the five year statute of limitations for submission of claims against the General Post Fund under 38 U.S.C. 5226 bars the claim of heirs of a veteran who were known to VA at the time of the death of the veteran.

Held: The five year statute of limitations for filing claims under 38 U.S.C. 5226 should not bar a claim where the VA was aware of the existence of heirs at the time of the veteran's death and did not take proper action to transfer funds to the known heirs before making deposit to credit of the General Post Fund.

Effective Date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 9-71, June 14, 1971, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 21-91

Question Presented: The extent to which the Administrator's authority to furnish outpatient dental services and treatment is limited by provisions of subsection (b) of section 612, title 38, U.S.C.

Held: The use of the word "section" in the text of subsection (b) of section 612 limits authorized outpatient dental services and treatment to those dental conditions or disabilities specifically enumerated in that subsection. In view of the long and well documented legislative history of the VA dental program, such use of the word "section" and the construction placed thereon by current regulations were intended by the Congress.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 11-71, May 3, 1971, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 22-91

Questions presented: a. Whether VA may perform an autopsy on a veteran who dies outside of the VA facility while undergoing post-hospital care under the provisions of 38 U.S.C.

612(f)(2) when the cause of death is unknown or uncertain and the results of an autopsy may enable VA to complete its hospital records, assuming proper authorization by the next of kin is obtainable.

b. If so, may the same conclusion be applied in the case of a veteran whose post-hospital care outpatient treatment status arises from other statutory authority?

Held: a. there is authority to perform an autopsy on a veteran who dies outside a VA facility while receiving post-hospital treatment under 38 U.S.C. 612(f)(2) when the cause of death is unknown or uncertain if it is concluded that such autopsy is reasonably required for any necessary purpose of VA, including the completion of official records and advancement of medical practice and when proper authorization of the next of kin is obtained. Such authorization encompasses the furnishing of transportation of the body. If a research purpose is to be accomplished, both the transportation of the remains and the costs of autopsy are properly chargeable to the appropriation for research.

b. The conclusion in 'a', supra, is for application under similar post-hospital care outpatient treatment circumstances regardless of the source of the authority for the relationship; e.g., service-connected veterans under section 612(a), Spanish-American War or Indian wars veterans under section 612(e), and those veterans whose eligibility for medical services arises under section 612(g).

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 13-71, May 26, 1971, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 23-91

Question presented: Whether there is any prohibition to the payment of additional amounts by the veteran or his family to obtain benefits from a contract nursing home for creature comforts not considered part of the basic nursing home care provided by VA.

Held: Payment of additional amounts by the veteran or his family is permissible, with prior VA approval, for creature comforts not considered a part of the basic nursing home care provided by VA.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 9-72, December 11, 1972, and is being reissued as a Precedent

Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 24-91

Question presented: Is the establishment of therapeutic communities and similar training facilities for the rehabilitation of patients with psychiatric problems or suffering from alcohol or drug abuse or for spinal cord injury patients legally permissible as part of the VA hospital care program?

Held: In view of the broad authority of the Administrator to provide a complete medical and hospital care program for veterans, the establishment of halfway houses, i.e., therapeutic communities, is legally permissible as part of the VA hospital care program.

Effective Date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 5-73, August 15, 1973, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 25-91

Questions Presented: a. What is the proper and legal manner for obtaining donated cadaver kidneys? b. Has VA published a definition of "death" for this purpose? c. What is the position of VA on the status of the "cerebral or brain death" theory?

Held: The VA policy with respect to the legal and proper manner of obtaining organs for the kidney transplant program must reflect the state or local Anatomical Gift Act provisions and meet the locally accepted criteria for determining the time of the donor's death.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 9-73, November 9, 1973, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 26-91

Question Presented: Is it mandatory that the report of the Advisory Committee on Cemeteries and Memorials be made directly to the Congress simultaneously with a report to the Administrator, or must the report be submitted to the Administrator who,

in turn, will forward it to the Congress with his recommendations?

Held: The language in 38 U.S.C. 1001 requiring the Committee to make periodic reports and recommendations might be literally interpreted as requiring such reports and recommendations to be submitted directly to the Congress. However, various provisions of the Federal Advisory Committee Act clearly show a different intent on the part of the Congress with respect to the functions and authority of Advisory Committees. The Congress has in this legislation said that (a) The function of an advisory committee is advisory only and (b) all matters under consideration should be determined in accordance with the law administered by the appropriate executive official. There is only one way the Administrator, the responsible executive official, can determine all matters under consideration by the Committee in accordance with the law. He must receive, for transmission to the Congress, the recommendations and report of the Committee, and transmit same with his determinations with respect thereto. It is only in this manner that he can assure compliance with the provisions of Pub. L. 92-463 and Executive Order 11686, as implemented by OMB Circular No. A-63 and MP-1, Part 1, Chapter 12.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 4-74, April 10, 1974, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 27-91

Question Presented: The proper interpretation and application of 38 U.S.C. 210(c)(3)(A) which authorizes the Administrator to provide equitable relief to any person who suffers a loss on account of an erroneous determination by VA that someone was entitled to benefits when, in fact, he was not so entitled.

Held: When a case arises involving section 210(c)(3)(A) the following determinations must be made in order to properly recommend to the Administrator that relief be granted: (a) That an erroneous determination as to eligibility for benefits was made by the VA; (b) that an individual has acted to his detriment based on the erroneous determination; (c) that the individual who has acted to his detriment was not aware that the determination of

eligibility was made in error; and (d) the extent of the loss suffered by the individual and the remedy to be afforded.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 8-74, May 20, 1974, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 28-91

Question Presented: May an otherwise eligible veteran be furnished drugs and medicines by the VA while he or she is a resident of the State Veterans Home or should he or she look to that institution for the provisions of these needed items?

Held: VA may furnish "very unusual" or "expensive" drugs and medicines to or on behalf of any eligible veteran in a State Home, provided they are not within the scope of medical services normally required to be provided by the Home, and provided further that there is no duplication (i.e., costs incident to the provision of such drugs and medicines are not included in the computation of the per capita costs). The determination of what is "very unusual" or "expensive" is for administrative resolution by the Department of Medicine and Surgery, keeping in mind the dual responsibilities of the States and the Federal Government.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 14-74, July 18, 1974, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 29-91

Question Presented: Does VA have authority to waive the recapture provisions of 38 U.S.C. 5036, when State Home nursing home care units constructed with grant funds provided by VA pursuant to subchapter III of chapter 81, title 38, U.S.C., are utilized for a different level of care?

Held: The congressional intent to assist States in the construction of nursing home care facilities appears unmistakable. We find nothing in the legislative history of Public Law 88-450, which introduced the subchapter in question, or in the general rules of statutory construction, from which authority to waive the recapture provisions can be deduced. However

commendable it might be for the State of Nebraska to make a higher level of care available to the residents of the Home, we are of the opinion that there is no authority for VA to waive the recapture provisions.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 15-74, July 22, 1974, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 30-91

Question presented: Does the mathematical limitation contained in 38 U.S.C. 601(4)(C)(iii) apply to the Commonwealth of Puerto Rico?

Held: The mathematical limitation on private hospital care of veterans residing in a State, Territory, Commonwealth or possession of the U.S. as provided under 38 U.S.C. 601(4)(C)(iii) does not apply to Puerto Rico. This subsection applies only to the noncontiguous States, Alaska and Hawaii. The expiration date of clause (iii) applies to all noncontiguous lands (including territories and Puerto Rico) which are a part of, or controlled by, the U.S.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Council Opinion 4-75, October 30, 1974, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 31-91

Question presented: Is it legally permissible to allow participation of outpatients in the Incentive Therapy program?

Held: The term "patients" may be read generically so that outpatients as well as inpatients may be considered within the scope of the provisions of 38 U.S.C. 618 for participation in the Incentive Therapy program.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 20-75, July 18, 1975, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 32-91

Question presented: What guidelines should be established for the furnishing of rehabilitative or therapeutic devices

which might be construed as temporary home improvements?

Held: The home health services language cannot be construed to authorize something which can be considered a personal comfort item that would make life outside a hospital more acceptable, but which could not be considered necessary for medical treatment. The determination of what is reasonable and necessary for treatment is a question of medical fact.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 22-75, June 10, 1975, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 33-91

Question presented: Whether VA Hospital Police should refrain from issuing United States Court Violation Notices to juvenile offenders for violations of VA Regulation 218, or, in the alternative, whether juveniles should continue to be cited until the current practices are challenged.

Held: In any State where jurisdiction over VA property is concurrent or proprietary in nature, the provisions of the Juvenile Justice and Delinquency Prevention Act require that cases involving violation of Federal law by juveniles (including violations of VA Regulations 218) be presented to the appropriate local prosecutor in order that he may accept or relinquish prosecutorial responsibilities. This will include both arrest and citation cases, and contact should be made with the appropriate United States Attorney to explore the question of whether he or the agency will contact the local prosecutor to discuss the matter.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 23-75, September 11, 1975, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 34-91

Question presented: Under the current law, it is possible to provide modification of utility systems for home dialysis patients?

Held: The law does allow for modification of utility systems in a veteran's home, when such modifications are deemed essential to, and are an integral part of, the home

dialysis treatment, and failure to make the necessary treatment available in the home would result in the readmission of the veteran to a VA hospital. The basic criteria which must be considered in determining the extent of these modifications are set forth in 38 U.S.C. 601(6); namely, that it would result in "the effective and economical treatment of a disability of a veteran."

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 26-75, August 20, 1975, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 35-91

Question presented: Does care at a contract nursing home under VA auspices constitute care by VA within the meaning of 38 U.S.C. 627, so as to allow readmission to a VA hospital from the contract nursing home without regard to current eligibility criteria?

Held: Care at a contract nursing home does constitute care by VA and, therefore, continued treatment in the case of this veteran is authorized both under the current statutory savings provision (38 U.S.C. 627), and under precedents based on the principle of *res judicata*, established prior to the enactment of this provision of law. Under the *res judicata* principle, protected status depends on continuous treatment and would be terminated by a break in treatment.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 8-76, May 10, 1976, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 36-91

Question presented: Does the present language of 38 U.S.C. 3202 enable VA to accept an application for an automobile authorized to an eligible veteran who is incompetent and where the application is signed by a spouse as payee?

Held: A spouse-payee may file an application for an automobile on behalf of an incompetent veteran and such an application may be properly accepted and processed.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 9-76, August 25, 1975, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and

14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 37-91

Question presented: What is the responsibility and possible liability of a hospital to return a veteran patient who has left the hospital grounds without permission to visit a nearby establishment, and who has become intoxicated and caused such a disturbance that the hospital has been called by the proprietor who requested that VA personnel be sent to return the patient to the hospital?

Held: a. The patient's rights are violated if force is used or the patient is returned to the hospital against his will.

b. Unless the patient is incompetent or under commitment to the hospital there is no duty or responsibility upon the hospital to return the veteran patient.

c. VA is not liable for damages caused by a patient to the property of others.

d. VA has no liability or responsibility to the patient for injuries suffered by the patient as the result of the negligent act of a third party.

e. VA would not be liable for injuries suffered by the patient while off the hospital premises in crossing the street or in any other manner not caused by a VA employee. (However, if any action can be taken to alleviate a dangerous condition, needless to say, such action should be taken.)

f. VA would not be liable for injuries caused to a third party by the negligent act of the veteran.

g. While suit could be brought against the government for acts of assault, battery, false imprisonment, or false arrest by any investigative or law enforcement officer of the United States who is empowered by the law to make arrests, and while personal liability from such a suit would be protected under the provisions of Public Law 93-253, such provisions are not applicable under the circumstances described since a VA Hospital Police Officer is not empowered to make arrests off VA premises. Only where the arrest took place on VA premises would the forgoing come into consideration.

h. Where a VA Hospital Police Officer is acting in a capacity which can be considered to make him a member of the medical care team and is sued by the patient, the personal liability immunity provisions of 38 U.S.C. 4116 would be for consideration.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 11-76, February 5, 1976, and is being reissued as a Precedent

Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 38-91

Question presented: May the Veterans Administration extend financial assistance to the Virgin Islands for purposes of construction of a State home facility to furnish nursing home care to eligible veterans?

Held: The Virgin Islands is a U.S. "possession" within the meaning of 38 U.S.C. 5031(b), and, accordingly, there is no authority for VA to extend financial assistance to construct a State home facility to furnish nursing home care.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 3-77, October 12, 1976, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 39-91

Question presented: a. Is there authority for providing space in an existing or planned VA hospital for the operation of a bank?

b. If so, what procedures should be employed to accomplish the provision of such space?

Held: a. Space may be lawfully provided in an existing or planned VA hospital for the operation of a bank.

b. If such space is to be provided, it must be accomplished by the execution of a formal lease and by formal, competitive advertising in the absence of a legal justification for procurement by negotiation under Part 1-3 of the Federal Procurement Regulations.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 8-77, April 4, 1977, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 40-91

Question presented: What is VA's authority for application of M-1, Part 1, chapter 16, ¶ 16.20—authority to limit outpatient services afforded discharged members of allied armed forces under 38 U.S.C. 109 so that nonemergent treatment would be rendered to the extent that it did not interfere with the

treatment or service provided VA beneficiaries?

Held: That Administrator's primary responsibility to veterans may not be supplanted by the provision of nonemergent outpatient treatment to allied beneficiaries to the extent that it interferes with services provided VA beneficiaries.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 5-79, October 29, 1976, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 41-91

Question presented: Is 38 U.S.C. 621(h) the sole legal authority for providing a veteran with drugs and medicines prescribed by the veteran's private physician, when VA has no involvement, fee basis or otherwise, in the treatment of the veteran?

Held: 38 U.S.C. 621(h) is the exclusive authority for providing a veteran with drugs and medicines prescribed by the veteran's private physician, when VA has no involvement, fee basis or otherwise, in the treatment of the veteran.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 11-83, October 11, 1983, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 42-91

Questions presented: a. Is there legal authority to allow employees to use, for their own health benefit, equipment paid for from the medical care appropriation and intended for patient use? b. What, if any, liability is there for employee use of such equipment during non-duty status times such as before and after work or lunch breaks?

Held: a. There is ample authority for the joint use by VA employees and patients of equipment paid for by medical care appropriations in order to implement a fitness program pursuant to 5 U.S.C. 7901.

b. The liability of individuals is extremely limited and should not act as a deterrent to use of the facilities. Under most foreseeable circumstances, the liability of the government should be limited to that which is permitted under FECA. 5 U.S.C. 8147 provides for Agency contribution to the employees

compensation fund based upon actual cost assessed by the fund. Pursuant to section 8147 "each agency * * * shall include in its annual budget estimates for the fiscal year beginning on the next calendar year a request for an appropriation in an amount equal to the costs." The liability costs of the fitness programs can be contained by careful management directed at preventing employee injury.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 2-85, March 5, 1985, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 43-91

Question presented: When VA-loaned medical or prosthetic equipment is damaged or destroyed, does the Agency have any claim against the veteran, or may VA refuse to furnish replacement equipment?

Held: By using mandatory language "shall provide" rather than the permissive "may furnish" used in sections 612 and 617, Congress did not grant the Administrator the same wide discretion to determine that an authorized benefit will not be provided at all. However, by adding the language, "[I]n accordance with regulations which the Administrator shall prescribe," we believe the Administrator is given wide latitude to place conditions on provision of the benefit. Accordingly, the Administrator may promulgate regulations limiting provision of equipment under section 1902(c) to only those veterans who do not abuse the system by negligently or willfully damaging or destroying equipment loaned to them.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 6-85, September 5, 1985, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 44-91

Question presented: Whether it is proper for a VA social worker to advise the spouse of an incompetent beneficiary, who is to be placed in a nursing home, to have the spouse appointed guardian of the beneficiary and then obtain a court order to utilize all income, include veterans' benefits, for such spouse's own support so as to

shield the income from being counted for Medicaid eligibility purposes.

Held: Even though DM&S is vitally interested in the financial resources available to meet the needs of an incompetent beneficiary upon de-institutionalization from a VA facility, the authority and responsibility for payee selection, as well as the administrative oversight of the management of funds by the fiduciary recognized or appointed, rest primarily with the VSO's and secondarily with the District Counsels. Each case must be evaluated on its own merits and, while VA must make every effort to lawfully maximize all resources available to meet the needs of beneficiaries and their dependents, it must not encourage the undermining of standards set by other agencies. We suggest that social workers and other DM&S employees involved in planning for an incompetent beneficiary's care upon release from a VA institution provide pertinent information and recommendations to the VSO, or designee, regarding payment arrangements needed.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 1-86, October 24, 1985, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 45-91

Question presented: Under what circumstances, if any, does 38 U.S.C. 1902(a) permit payment of the automobile allowance where an automobile is leased, rather than sold, to a person eligible for the benefit?

Held: The transfer of possession of a vehicle under a contract amounting to a lease does not qualify for the automobile allowance under 38 U.S.C. 1902(a).

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 2-86, November 25, 1985, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 46-91

Question presented: Under what circumstances domiciliary patients may be required to submit to blood, breath or urine testing for the detection of drug or alcohol use? The issue arises as a result of the intention to require domiciliary

patients participating in drug abuse treatment programs to execute a written contract prior to entering the domiciliary program to permit such testing at the request of a staff member. The intention to require domiciliary patients not in abuse programs to submit to testing, irrespective of any contract, is also at issue.

Held: It is our opinion that testing undertaken as part of the patient's treatment or rehabilitation, to include periodic analyses of blood or urine specimens as part of a required physical examination, does not violate protections afforded by the Fourth Amendment. Medical testing associated with monitoring a patient's medical progress is clearly integral to provision of medical care; thus conducting periodic testing as part of examinations furnished domiciliary members would appear to be perfectly reasonable. Secondly, collection and testing on a case-by-case basis where facts give rise to a reasonable suspicion that an individual is under the influence of, or abusing, alcohol or drugs would not violate Fourth Amendment protections. Presentation of a domiciliary patient demonstrating characteristically erratic behavior may well require that the individual be tested to preserve institutional security by detecting and preventing alcohol and drug abuse as well to determine whether an individual patient requires treatment. Such a response may be necessary to protect the health and safety of all those participating in the program. We recommend the formulation of an administrative plan or guidelines to govern the initiation of case-by-case substance abuse testing and to assure its reasonableness. We also recommend that the domiciliary give appropriate notice to the patient that he may be required to submit to testing and possible sanctions associated with noncompliance or positive test findings. Finally, we do not envision a basis under which random, generalized substance abuse testing of domiciliary patients would be permissible.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 7-86, March 10, 1986, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 47-91

Questions presented: a. Whether VA facilities in Massachusetts must follow *Rogers v. Commissioner of Mental*

Health Department, 458 N.E. 2d 308 (S. J. Ct. Mass. 1983) in administering psychotropic drugs to incompetent patients. b. Whether VA should as a matter of comity follow State law in such cases. c. If not, whether current VA procedures are sufficient to meet the constitutional requirements for administering such drugs to patients who are incapable of making decisions regarding use of such drugs. d. If not, what options are available to the Agency to correct those deficiencies, particularly in Massachusetts? e. What are the implications under the Federal Tort Claims Act (FTCA) in determining not to follow State law in Administering such drugs?

Held: VA has no obligation to follow State law regarding obtaining consent to administer psychotropic drugs. Current VA procedures may not, however, be sufficient to meet due process requirements for administering such drugs to involuntarily committed patients. These patients have qualified constitutional right to refuse treatment with such drugs which requires that, except in an emergency, the patient be provided certain procedural protections to determine whether involuntary treatment should proceed. We recommend establishing interim guidelines pending agency-wide action on this issue. These guidelines should minimize or eliminate the risk that the Agency or its employees will be found liable for improperly administering psychotropic drugs. VA's interest in ensuring uniformity in the administration of such drugs through procedures that accommodate those needs do not warrant following State law agency-wide as a matter of comity. However, given the facts here, we have no objection to hospitals in Massachusetts following State procedures pending development of agency-wide procedures.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 9-86, August 1, 1985, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 48-91

Question presented: To what extent is the Director, VAMC or other VAMC personnel legally liable for statements made responding to reference inquiries about VAMC staff members presented by local community hospitals?

Held: VA must ensure that any information released to the private

hospital is accurate, complete, timely, and relevant, and that no identifying data of patients or information from a SERP visit report or investigation is released. Further, the Director of the VAMC Amarillo, Texas would be absolutely immune from a lawsuit alleging libel thereby defeating a lawsuit at the outset. In order to ensure that the director can successfully assess the defense of qualified immunity in the event that a constitutional tort is alleged, we suggest that the physician be notified of the information to be released, and be given a meaningful opportunity to respond to the information orally or in writing before the information is released to a private hospital.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 3-87, December 2, 1986, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

O.G.C. Precedent 49-91

Questions presented: a. May VA expend funds for a program to allow patients to purchase and prepare food, and then serve each other meals? b. If so, may VA charge the patients for the meals they receive as part of the program? c. May donations be used to help fund the rehabilitation program?

Held: a. A VA medical center may conduct a program to allow veterans to purchase food and prepare and serve each other meals as a form of medical (but not vocational) rehabilitation. b. The center may not, however, charge veterans for the meals consumed. c. Donations may be used to help fund such a program.

Effective date: March 11, 1991.

Note: This opinion was previously issued as General Counsel Opinion 6-88, July 20, 1988, and is being reissued as a Precedent Opinion pursuant to 38 CFR 2.6(e)(9) and 14.057. The text in the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.

Dated: April 9, 1991.

Raoul L. Carroll,
General Counsel.

[FR Doc. 91-12958 Filed 5-31-91; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Computer Matching Program Between the Department of Veterans Affairs and the United States Office of Personnel Management

AGENCY: Department of Veterans Affairs.

ACTION: Notice of computer matching program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs proposes to conduct a computer matching program with the U.S. Office of Personnel Management. The purpose of the program is to identify and locate U.S. Government active and retired civilian employees who owe delinquent debts to the Federal Government under certain programs administered by the Department of Veterans Affairs. Once identified and located, the debtors may become subject to involuntary offset of their pay under Public Law 97-365.

DATES: Written comments must be received on or before July 3, 1991. Comments will be available for public inspection until July 15, 1991.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to conduct the matching program to the Secretary of Veterans Affairs (217A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 at the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, until July 15, 1991.

FOR FURTHER INFORMATION CONTACT: Daniel Osendorf, Director, Debt Management Staff (20A6), Department of Veterans Affairs, (202) 233-2853.

SUPPLEMENTARY INFORMATION: The Department of Veterans Affairs and the U.S. Office of Personnel Management have concluded an agreement to conduct a computer matching program for the purpose stated below. This notice meets publication requirements under subsection (e)(12) of the Privacy Act of 1974 (5 U.S.C. 552a, as amended by Pub. L. 100-503 and 101-508). Set forth below is a description of the matching program as required by the "Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988", issued by the Office of Management and Budget and published at 54 FR 25818 (June 19, 1989).

Report of Computer Matching Program Between the Department of Veterans Affairs and the U.S. Office of Personnel Management for Debt Collection

A. Participating Agencies

The Department of Veterans Affairs is the recipient agency and will perform the computer match with records provided by the U.S. Office of Personnel Management, the source agency.

B. Purpose of the Match

This match will permit the Department of Veterans Affairs to identify and locate active and retired civilian employees of the U.S. Government who owe delinquent debts to the Federal Government as the result of their participation in certain programs administered by the Department of Veterans Affairs. Once identified and located, these debtors' pay or retirement benefits may become subject to offset for collection of their debts under the provisions of the Debt Collection Act of 1982 when voluntary payments are not forthcoming.

C. Authority for Conducting the Matching Program

The authority for undertaking this match is found in 5 U.S.C. 5514a (Debt Collection Act of 1982) and 38 U.S.C. 3006 which authorizes the exchange of information between the Department of Veterans Affairs and other Federal agencies.

D. Categories of Individuals Involved and Identification of Records to be Matched

1. *U.S. Office of Personnel Management Systems:* (1) OPM/CENTRAL-1, Civil Service Retirement and Insurance Records, containing records of approximately 1.5 million Federal civilian retirees. This system of records appears at 55 FR 3816 (February 5, 1990). The exchange of data in this matching program is consistent with routine use "ff" for this system of records. (2) OPM/GOVT-1, General Personnel Records, containing records of approximately 2.2 million current Federal civilian employees. This system of records appears at 55 FR 3838 (February 5, 1990). The exchange of data under this matching program is consistent with routine use "hh" for this system.

2. *Department of Veterans Affairs Systems:* (1) Compensation, Pension, Education and Rehabilitation Records-VA, 58VA21/22/28, and (2) Loan Guaranty Home, Condominium, and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records and Vendee Loan

Applicant Records, 55VA26. 58VA21/22/28 appears at page 918 of the document entitled Privacy Act Issuances, 1989 Comp. Volume II, and has been amended at 55 FR 28508 (July 11, 1990), 55 FR 42540 (October 19, 1990) and 56 FR 15668 (April 17, 1991). 55VA26 appears at page 914 of the document entitled Privacy Act Issuances, 1989 Comp., Volume II, and has been amended at 56 FR 2064 (January 18, 1991) and 56 FR 15666 (April 17, 1991). The exchange of data under this matching program is consistent with routine uses 9 and 12 of 58VA21/22/28 and routine use 19 of 55VA26. The Department of Veterans Affairs records used in this match are limited to individuals who owe delinquent debts to the Federal Government as a result of their participation in programs administered by the Department of Veterans Affairs. Approximately 500,000 persons fall within this category. The records actually used to perform the match are maintained in the Centralized Accounts Receivable System (CARS). CARS records are a subset of those found in the Privacy Act system of records 58VA21/22/28. In some instances, data in an individual's record in the Privacy Act system of records 58VA21/22/28 include certain data extracted from the same individual's record maintained under 55VA26. This would occur, for instance, where an individual has a delinquent debt as the result of his or her participation in the Department of Veterans Affairs loan guaranty program.

E. Inclusive Dates of the Matching Program

The matching program is expected to begin on or about July 1, 1991, and continue in effect for 18 months. Matching activity will begin no sooner than 30 days after the publication of this notice in the Federal Register, or 30 days after the transmittal of this notice and a copy of the agreement to Congress and the Office of Management and Budget, whichever is later. The agreement governing the matching program between VA and OPM and, thus, the matching program, may be renewed for an additional 12 months with the mutual approval of the Data Integrity Boards of each agency. Such renewal must occur within three months prior to the expiration of the 18-month period set forth above and under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

Dated: May 23, 1991.

Edward J. Derwinski,
Secretary of Veterans Affairs.

[FR Doc. 91-12993 Filed 5-31-91; 8:45 am]

BILLING CODE 5320-01-M

Test Report

Monday
June 3, 1991

Part II

Department of Labor

Employment Standards Administration,
Wage and Hour Division

29 CFR Part 578

Minimum Wage and Overtime Violations—
Civil Money Penalties; Proposed Rule and
Request for Comments

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
Division

29 CFR Part 578

Minimum Wage and Overtime
Violations—Civil Money Penalties

AGENCY: Wage and Hour Division,
Employment Standards Administration,
Labor.

ACTION: Notice of proposed rulemaking;
request for comments.

SUMMARY: This document provides proposed regulations for the implementation of the civil money penalty provisions of the 1989 Amendments to the Fair Labor Standards Act of 1938 (FLSA), which were signed into law on November 17, 1989. Effective that date any employer employing individuals who are covered by the FLSA is subject to a civil money penalty up to \$1,000 for each repeated or willful violation of the minimum wage or overtime provisions of the Act.

DATES: Comments are due on or before August 2, 1991.

ADDRESSES: Submit written comments to John R. Fraser, Acting Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: John R. Fraser, Acting Administrator, Wage and Hour Division, U.S. Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:**I. Background**

The Fair Labor Standards Amendments of 1989 were enacted into law on November 17, 1989. Among other provisions, the Amendments amend section 16(e) of the Act, which provided for assessment of civil money penalties for violations of the child labor provisions, to make any person who repeatedly or willfully violates section 6 (minimum wage) or section 7 (overtime) of the Act subject to a civil money penalty not to exceed \$1,000 for each such violation. These regulations define certain statutory terms and set forth the criteria to be used by the Administrator for assessing the penalties.

Regulations setting forth procedures for assessment of penalties and

exceptions thereto are set forth at 29 CFR part 580, published separately in the Federal Register this date.

II. Paperwork Reduction Act

There are no reporting or recordkeeping requirements contained in this regulation.

III. Summary of Rule

In order to apply the civil money penalty provisions of the 1989 Amendments, the rule defines the terms "repeated" and "willful" and sets forth the criteria to be used in the determination of the amount of the penalties.

A "repeated" violation is defined as occurring when there has been a prior finding of a section 6 or section 7 violation, or both, by the Administrator or by a court or other tribunal with authority to make such a finding, that the employer has violated section 6 or section 7, or both. Such a prior violation is deemed to be established where the employer has failed to file an appeal of the finding of the court or other tribunal, or where any appeal filed has been concluded.

In the case of a finding by the Administrator, issuance of a Form WH-56 notice of back wages due or other written finding by a Wage-Hour official authorized by the Administrator to issue such finding conclusively establishes such violation for purposes of these civil money penalty provisions unless the employer notifies the Administrator in writing that the claim is disputed, including the specific grounds for disputing the claim, within 30 days of receipt of the finding. With respect to investigations conducted prior to the effective date of these regulations, the employer must file such a response within 30 days after receipt of any written notification of the violation which occurs after the effective date of these regulations, or in response to the assessment letter issued as a result of a subsequent finding of a violation, whichever occurs first.

At any hearing on the civil money penalty assessment, the finding by the Administrator or authorized Wage-Hour official shall be deemed to constitute a *prima facie* case that the employer previously violated the Act. The employer's defense regarding the prior violation will be limited to those specific defenses raised in the response made after notification of that violation, and it shall be the burden of the employer to establish the validity of the defense.

The definition of a "willful" violation is taken from the case of *McLaughlin v. Richard Shoe*, 488 U.S. 126 (1988), in which the Supreme Court defined a

"willful" violation of the FLSA for purposes of the 3-year statute of limitations for recovery of back wages contained in section 6 of the Portal-to-Portal Act. A violation is considered "willful" when the employer knew that its conduct was prohibited by the Act or showed reckless disregard or deliberate indifference for the requirements of the Act. A violation shall be deemed to be willful, notwithstanding an employer's belief that the conduct is in compliance with the law, whenever the employer's actions are at variance with previous advice by the Administrator, or a Wage-Hour official duly authorized to perform such function, such as where the employer was advised during the course of an investigation of similar or other conduct that the conduct in question constitutes a violation of the Act, where the conduct is at variance with conduct which the employer was advised was required to comply with the Act, or where the employer relies on a belief that its employees are not covered by the Act, contrary to advice by Wage-Hour. In other circumstances, all of the facts and circumstances regarding the conduct shall be taken into consideration in determining whether the violation was willful.

In determining the amount of the penalties the Administrator will consider the relevant facts and circumstances, including various factors which may serve, where appropriate, to mitigate the severity of the penalties. The statute (section 16(e)) requires that in determining the amount of the penalty the Department consider the size of the employer and the gravity of the violation. In addition, under this rule the Administrator may consider efforts by the employer in good faith to comply with the Act; whether the violations resulted from a bona fide legal dispute; previous history of violations, including whether the employer is subject to an injunction against such violations; the employer's commitment to future compliance; interval between violations; number of employees affected; and any pattern of violations.

Executive Order 12291

This proposed rule is not considered to be a "major rule" within the meaning of Executive Order 12291, in that it is not likely to result in (1) an annual effect on the economy of \$100 million or more, (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

During the most recently completed fiscal year (FY 1990), the Wage and Hour Division conducted reinvestigations in which violations were discovered of 1,497 employers. A reinvestigation is reentry into the same establishment that was previously investigated within the past twelve months. The Wage and Hour Division has no experiential data on which to estimate the anticipated level of CMPs, however, preliminary estimates based on other regulations providing CMPs indicate that an annual assessment of approximately \$750,000 can be expected.

Regulatory Flexibility Analysis

Only persons who have repeatedly or willfully violated the minimum wage and overtime requirements of the Act will be affected by this rule. Furthermore, penalties will be assessed only in the amount of up to \$1000 for each violation, and the assessment will take into consideration the size of the employer's business. Accordingly, the Department has determined that the proposed regulation will not have a significant economic impact on a substantial number of small entities. Therefore no regulatory flexibility analysis is required. The Secretary has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration.

This document was prepared under the direction and control of John R. Fraser, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 578

Employment, Labor, Law enforcement, Penalties.

Signed at Washington, DC on this 23d day of May, 1991.

Lynn Martin,

Secretary of Labor.

Samuel D. Walker,

Acting Assistant Secretary for Employment Standards.

John R. Fraser,

Acting Administrator, Wage and Hour Division.

Accordingly, title 29, chapter V, subchapter A, of the Code of Federal Regulations is proposed to be amended by adding a new part 578 to read as follows:

PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

Sec.

578.1 Purpose and scope of regulations

578.2 Definitions

578.3 Violations for which penalty may be assessed

578.4 Determination of penalty

Authority: Sec. 9, Public Law 101-157, 103 Stat. 938; sec. 3103, Public Law 101-508; 29 U.S.C. 216(e).

§ 578.1 Purpose and scope of regulations.

Section 9 of the Fair Labor Standards Amendments of 1989 amended section 16(e) of the Act to subject any person who repeatedly or willfully violates section 6 or section 7 of the Act to a civil money penalty not to exceed \$1,000 for each such violation. This part defines terms necessary for administration of the civil money penalty provisions, describes the violations for which a penalty may be imposed, and describes criteria for determining the amount of penalty to be assessed.

§ 578.2 Definitions.

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060 as amended; 29 U.S.C. 201, et seq.);

(b) *Administrator* means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and includes any official of the Wage and Hour Division who is authorized by the Administrator to perform any of the functions of the Administrator under this part.

(c) *Person* includes any individual, partnership, corporation, association, business trust, legal representative, or organized group of persons.

§ 578.3 Violations for which penalty may be assessed.

(a) A penalty of up to \$1,000 per violation may be assessed against any person who repeatedly or willfully violates section 6 (minimum wage) or section 7 (overtime) of the Act. The amount of the penalty shall be determined by application of the criteria in § 578.4.

(b) Repeated violations. (1) An employer's violation of section 6 or section 7 of the Act shall be deemed to be "repeated" for purposes of this section when there has been, with respect to a violation occurring prior to the violation for which the assessment is issued, a decision or a finding by the Administrator or by a court, administrative tribunal, or other tribunal authorized to make such determination,

that the employer has violated section 6 or 7 of the Act, except as follows:

(i) Where the Administrator or an official authorized by the Administrator has issued a finding of violations (through issuance of a Form WH-56, "Summary of Unpaid Wages," or otherwise), an employer who may later wish to dispute the violation so found in any proceeding concerning the assessment of civil money penalties for a subsequent violation of section 6 or 7 of the Act, must file a response to the finding, which must be received by the Administrator not later than 30 days from the date of receipt of the finding. The response shall specify in detail the factual and legal matters in dispute, including the specific reasons or bases for the employer's dispute of such finding, and any affirmative defenses. A mere general denial of the violations shall not be sufficient to permit the contest of any of the factual or legal bases of the finding. Where service by certified mail is not accepted by the employer, the finding shall be deemed received on the date of attempted delivery.

(ii) In the case of investigations completed prior to [insert date 30 days after publication of final rule in the *Federal Register*], the response referred to in paragraph (b)(1)(i) must be received within 30 days of receipt of any written notification of the violation served after such date, or within 15 days of receipt of the notice of assessment of civil money penalties for the subsequent violation, whichever occurs first.

(iii) Where a court or other tribunal has made a finding that an employer has violated section 6 or 7 of the Act, the finding will not be deemed established if any appeal therefrom which has been timely filed is pending before a court or other tribunal with jurisdiction to hear the appeal, or if the finding has been set aside or reversed by such appellate tribunal. Notwithstanding the fact that such an appeal concerning alleged violations of the Act is pending, if the Administrator issues a finding that the employer has committed the violations at issue in the court or other proceeding, and the employer wishes to dispute the violation in any civil money penalty proceeding regarding subsequent violations, the employer must follow the procedures set forth in paragraph (b)(1)(i) or (ii) of this section.

(2) Where the employer has filed a timely response to a finding by the Administrator pursuant to paragraph (b)(1)(i), (ii) or (iii) of this section, the finding of the Administrator or authorized Wage-Hour official shall be deemed to constitute a *prima facie* case

that the previous violation has occurred. The employer's defense regarding the previous violation shall be limited to those specific reasons for disputing the finding and defenses raised in the response to the finding, and it shall be the employer's burden to establish the validity of the employer's assertions and defenses.

(c) Willful violations. (1) An employer's violation of section 6 or section 7 of the Act shall be deemed to be "willful" when the employer knew that its conduct was prohibited by the Act or showed reckless disregard or deliberate indifference for the requirements of the Act. Except as set forth in paragraph (C)(2) of this section, all of the facts and circumstances surrounding the violation shall be taken into account in determining whether a violation was willful.

(2) A violation shall be deemed to be willful if the employer's actions are at variance with previous advice by the Administrator, or where, as a result of previous advice of the Administrator, the employer was on notice that it should have inquired further into whether its conduct was in compliance with the Act.

§ 578.4 Determination of penalty.

(a) In determining the amount of penalty to be assessed for any repeated or willful violation of section 6 or section 7 of the Act, the Administrator shall consider the seriousness of the violations and the size of the employer's business.

(b) Where appropriate, the Administrator may also consider other relevant factors in assessment of the

penalty, including but not limited to the following:

(1) Whether the employer has made efforts in good faith to comply with the provisions of the Act and this part;

(2) The employer's explanation for the violations, including whether the violations were the result of a bona fide dispute of doubtful legal certainty;

(3) The previous history of violations, including whether the employer is subject to injunction against violations of the Act;

(4) The employer's commitment to future compliance;

(5) The interval between violations;

(6) The number of employees affected; and

(7) Whether there is any pattern to the violations.

[FR Doc. 91-12797 Filed 5-31-91; 8:45 am]

BILLING CODE 4510-27-M

Federal Register

Monday
June 3, 1991

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Missing Children's Assistance Act; Proposed Program Priorities; Notice

DEPARTMENT OF JUSTICE**Office of Juvenile Justice and Delinquency Prevention****Missing Children's Assistance Act; Proposed Program Priorities**

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of Proposed FY 1991 Research, Demonstration, and Service Program Priorities and Merit Selection Criteria under the Missing Children's Assistance Act.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing, for public comment, a Notice of FY 1991 proposed program priorities for making grants and contracts under section 405 of Juvenile Justice and Delinquency Prevention Act of 1974, as amended (the Act) (42 U.S.C. 5775).

DATES: Comments are due by 5 p.m. E.D.T. August 2, 1991.

ADDRESSES: Send comments to Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531 (202) 307-5911.

FOR FURTHER INFORMATION CONTACT: Patrick Meacham, Special Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531 (202) 307-5911.

SUPPLEMENTARY INFORMATION: Responsibility for establishing annual research, demonstration, and service program priorities and criteria for making grants and contracts pursuant to section 405 of the Juvenile Justice and Delinquency Prevention Act, as amended, rests with the Administrator of the Office of Juvenile Justice and Delinquency Prevention. For FY 1991, nine new programs and four continuation programs will constitute all proposed section 405 priority funding areas. The Administrator hereby announces these proposed priorities, specifying the criteria to be applied in their review, and inviting public comment on them for 60 days.

During FY 1991 additional new programs, or continuations of currently funded programs, may also be funded under sections 404 and 408 of the Act. Solicitations to fund all new Missing Children (title IV) assistance awards in amounts exceeding \$50,000 will be announced in the *Federal Register* and competitively awarded. Described below are discretionary programs being proposed for funding under section 405 of the Act followed by a listing of continuation programs currently funded under section 405 proposed as eligible to

receive continuation funding during their currently existing project periods. After consideration of public comments received and the publication of final section 405 program priorities, full program announcements further detailing program strategies and application requirements will be published in the *Federal Register* inviting applications for those programs referenced as "new programs."

New Programs**Grants and Cooperative Agreements To Support Public or Private Nonprofit Missing Children's Agencies Service Activities**

This program will provide grants for up to 2 years in amounts ranging from \$25,000-\$50,000 to support implementation of new or enhanced services to be provided by nonprofit agencies, public agencies or combinations thereof in the following areas:

- Educating parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;
- Providing information to assist in the location and return of missing children;
- Aiding communities in the collection of materials that would be useful to parents in assisting others in the identification of missing children;
- Assisting missing children and their families following the recovery of such children;
- Conducting activities to reduce the likelihood that individuals under 18 years of age will be removed from the control of their legal custodians without such custodian's consent; and
- Providing services that minimize the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation.

Up to \$600,000 will be available to support up to 24 assistance awards under this program initiative. Applications will be screened by a panel in the order received, and those applications receiving a score of 65 or higher will be eligible for funding consideration, providing that necessary programmatic and budgetary revisions are successfully negotiated.

All applications received will be rated on the extent to which they meet the following criteria:

- (1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate an understanding of the extent and nature of the problem of missing and exploited children. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly linked to the prevention and recovery of missing children and/or the provision of services to such children and their families. (25 points)

(4) The project management structure is adequate for the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. The applicant should provide evidence of appropriate linkages with law enforcement and other missing children nonprofit organizations. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points).

The applicant must provide evidence that the amount of the Federal grant will not exceed 25% of its current operating budget.

Program to Identify and Understand Risk Factors for Parental Abduction and Demonstrate Promising Prevention and Intervention Models

The goals of this two-phased program are to: (1) Learn more about the circumstances likely to precipitate the abduction of a child by a noncustodial parent and (2) to identify and document effective prevention and intervention strategies.

The objectives of this program are: (1) To investigate and document the circumstances most likely to result in the abduction of a child by a noncustodial parent and (2) to identify, demonstrate, and evaluate currently existing programs, public and private, that appear to be effective interventions to prevent parental abductions.

The program will provide one research grant or cooperative agreement in an amount up to \$400,000 for a project period of 36 months. Phase I will be funded in an amount not to exceed \$150,000 for 12 months, and Phase II will be funded at a level of approximately \$250,000 for 24 months. Phase I funding will support research to conduct an analysis of circumstances that place a child at risk of parental abduction. Phase II funding will provide for research to identify promising public and nonprofit programs currently used to prevent or intervene in parental abductions, determine how effectively they address the factors identified in Phase I as precipitating abductions, and develop written training and technical assistance materials to encourage program replication in jurisdictions

lacking such services. The grantee selected for this program will be required to analyze and to build upon information collected during the first national incidence study on missing children entitled: "Missing, Abducted, Runaway, and Thrownaway Children in America" with regard to family abductions, as well as other recent research in the area of family crisis intervention.

Product(s): The grantee will be responsible for preparing publication(s) describing risk factors for parental abductions and promising program interventions. These publications will be prepared in a style and format suitable for wide dissemination to family courts, prosecutors, social service agencies, and others working on the issue of family abductions.

All applications received will be rated on the extent to which they meet the following criteria:

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate a clear understanding of the extent of the problem of parental abductions and associated factors such as parental custody laws. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly related to the achievement of project objectives. (25 points)

(4) The project management structure is adequate to the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points).

Program for Research to Determine the Effectiveness of Mediation to Prevent or Resolve Parental Abductions

The goal of this program is to test mediation as a model in the prevention and resolution of abductions by noncustodial parents. Objectives of the program include measuring the effectiveness of existing mediation programs in reducing parental abductions and defining the aspects or elements of mediation programs that make them effective. Various mediation models will be examined including those operated by family courts, nonprofit organizations and publicly supported family counseling services.

The grantee will identify, study, and describe the effectiveness of currently operating mediation programs. A

comprehensive report of findings and recommendations suitable for dissemination to courts and child service agencies will be prepared by the grantee. One research grant or cooperative agreement will be awarded in an amount not to exceed \$300,000 for a 24-month project period.

All applications received will be rated on the extent to which they meet the following criteria:

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate a clear understanding of the extent of the problem of parental abductions and associated factors such as parental custody laws. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly related to the achievement of project objectives. (25 points)

(4) The project management structure is adequate for the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points).

Program to Provide Training for Teachers and Other School Officials Concerning Missing and Exploited Children

This program will develop and test a training curriculum to be used to train teachers, school officials, and child service workers to recognize probable indicators and circumstances that suggest that a child may likely be the victim of abduction by a noncustodial parent or other individual. The curriculum will include training regarding a teacher's or other child care worker's legal responsibility for reporting suspected incidents as well as procedures for reporting and requesting assistance for such a child. Information will also be provided to trainees concerning the lawful use of school records and birth certificates to identify and locate missing children.

This program will be conducted in two phases. Phase I will involve the development of the curriculum. Phase II will test the curriculum in test sites. Both phases will be completed within a 24-month project period. One competitive award will be made in an amount not to exceed \$175,000.

All applications will be rated on the extent to which they meet the following criteria:

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate a clear understanding of the extent and nature of the missing and exploited children problem. The applicant must demonstrate full knowledge of the ethical and legal responsibilities of teachers and other child care workers with regard to reporting suspected incidents of abduction. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly related to the achievement of project objectives. The applicant demonstrates prior linkages with school systems and child care agencies that will help to facilitate the provision of training. (25 points)

(4) The project management structure is adequate to the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points)

Program to Increase Understanding of Child Exploitation

The First Report from the National Incidence Studies, "Missing, Abducted, Runaway, and Thrownaway Children in America" provided the juvenile justice and missing children's fields with a better understanding of the extent and nature of the missing child problem. This newly acquired information will assist Federal, state, and local planners in their efforts to design intervention for the various types of missing child cases. It is known that many children who are missing become the victims of sexual exploitation, including pornography and prostitution, however little has been documented about the extent of the problem, the precipitating circumstances, or the system's response to the problem.

OJJDP will solicit applications to conduct a survey of current literature on the subject of child sexual exploitation, followed by a national incidence study on the types of child victims, the circumstances involved, and a study of system responses to the problem. This study will provide more detailed information about various issues relating to the missing and exploited children problem.

Up to \$300,000 will be available to support this study over a 3-year project period.

All applications will be rated on the extent to which they meet the following criteria:

- (1) The problem to be addressed by the project is clearly stated. (25 points)
- (2) The objectives of the proposed project are clearly defined. (20 points)
- (3) The project design is sound and contains program elements directly linked to the achievement of project objectives. (25 points)
- (4) The project management structure is adequate to the successful conduct of the project. (15 points)
- (5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)
- (6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points)

Effective Screening of Child Care and Youth Service Workers

Adults, volunteers and paid personnel, who work in agencies and organizations that provide services to and for children and youth are responsible for the guidance, supervision, and general well being of those under their care. While most such workers are conscientious individuals of high moral values, too often an employee has been known to have victimized a young person through sexual exploitation. This program will develop a screening protocol for use by nonprofit missing children's agencies and other organizations having direct contact with children and youth.

Up to \$100,000 is available to support this 12-month project.

All applications will be rated on the extent to which they meet the following criteria:

- (1) The problem to be addressed by the project is clearly stated. (25 points)
- (2) The objectives of the proposed project are clearly defined. (20 points)
- (3) The project design is sound and contains program elements directly linked to the achievement of project objectives. (25 points)
- (4) The project management structure is adequate to the successful conduct of the project. (15 points)
- (5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)
- (6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points)

Training and Technical Assistance for Non-Profit Missing Children's Programs

This program will provide technical assistance and training to improve the capacity of nonprofit missing children's organizations to engage successfully in activities that will prevent the abduction and sexual exploitation of children, assist in the recovery of such children, and provide services to aid in the reunification of families. Agency personnel will be trained in the most advanced technology available to assist in investigations, make identifications, track sightings, share data, access data, and ultimately locate and secure treatment for missing children.

Applications will be invited from public and private organizations. Up to \$250,000 will be available for the program implementation of a 24-month project period.

All applications will be rated on the extent to which they meet the following criteria:

- (1) The problem to be addressed by the project is clearly stated. (25 points)
- (2) The objectives of the proposed project are clearly defined. (20 points)
- (3) The project design is sound and contains program elements directly linked to the achievement of project objectives. (25 points)
- (4) The project management structure is adequate to the successful conduct of the project. (15 points)
- (5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)
- (6) Budgeted costs are reasonable, allowable and cost-effective for the proposed activities to be undertaken. (5 points)

Field-Initiated Program

Within the Field-Initiated Program, applications are invited which address certain specific priority areas of the Office of Justice Programs for Fiscal Year 1991. These priority areas are discussed below:

Prevention and Education—Keeping children from becoming missing, abducted, runaway, and throwaway children is closely associated with education and requires innovative and different approaches.

Community Based Programs—Public agencies and nonprofit groups working in the area of missing children must work cooperatively to maximize resources and share information that will prevent children from becoming missing, expedite recoveries, and provide treatment for missing children and their families. The involvement of residents, neighborhood organizations

and institutions is an essential element of successful programs.

Victims—Public and private agencies and organizations should implement policies and practices that will improve services for missing children and their families. Children who have been missing have too frequently been victimized by sexual exploitation and must be provided appropriate treatment.

Information Systems, Support and Statistics—Agencies serving missing and exploited children require accurate, accessible, comprehensive and timely information to develop effective policies and allocate resources to enhance missing children programs and reduce the incidence of such events.

Through the Field-Initiated Program, OJJDP encourages eligible agencies and organizations to develop promising and new ideas that are relevant to the mission of OJJDP in carrying out title IV of the Act.

Customarily, the research, development, and training programs which OJJDP has sponsored have addressed specific activities mandated by Congress. The Field-Initiated Program, however, invites imaginative and innovative approaches of researchers and practitioners to the discretionary activities authorized by section 405(a) (1) through (9) of the Act. Those approaches include research, demonstration, or service programs designed:

- (1) To educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;
- (2) To provide information to assist in the location and return of missing children;
- (3) To aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;
- (4) To increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of:
 - a. The abduction of a child, both during the period of disappearance and after the child is recovered and
 - b. The sexual exploitation of a missing child;
- (5) To collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases;
- (6) To address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active

participation of children and their families in cases involving abuse or sexual exploitation of children;

(7) To address the needs of missing children, as defined in section 403(1)(A), and their families following the recovery of such children;

(8) To reduce the likelihood that individuals under 18 years of age will be removed from the control of such individual's legal custodians without such custodians' consent; and

(9) To establish or operate statewide clearinghouses to assist in locating and recovering missing children.

The Field-Initiated Programs will have the following objectives:

(1) To promote and support research, development, demonstration and service programs which address innovative approaches toward improving existing practices and policies related to activities identified in section 405(a) of the Act;

(2) To encourage new methods for addressing the issue of Missing Children; and

(3) To develop knowledge that will lead to new techniques, approaches, and methods addressing the problems of missing and exploited children and the prevention and deterrence of abduction and exploitation;

Through the Field-Initiated Program, OJJDP is actively soliciting innovative program proposals. Applications should define the needs and/or problems and describe the objectives, strategy, and methodology to be employed. A brief review of the history of the issue and current knowledge and approaches to addressing this issue should be included.

A total of \$150,000 is available to support this program for a period of 18 months. Three to five awards are anticipated. Amounts will be based on the needs of each award.

All applications received will be rated on the extent to which they meet the following criteria:

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate an understanding of the extent and nature of the problem of missing and exploited children. (25 points)

(2) The objectives of the proposed project are clearly defined. (15 points)

(3) The project design is sound and contains program elements directly linked to the prevention and recovery of missing children and or/the provision of services to such children and their families. The project design demonstrates an innovative approach to addressing the problem. (30 points)

(4) the project management structure is adequate to the successful conduct of the project. (10 points)

(5) Organizational capability is demonstrated at a level sufficient to conduct the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the activities proposed to be undertaken. (10 points)

Continuation Programs

Listed below are programs currently funded under section 405 of the Act that are proposed as continuing program priorities for FY 1991 under their existing project period grants.

The following criteria, based on merit, will be considered in assessing the noncompetitive continuation awards listed below.

(1) The results of title IV funding under the recipient's current award justify further program activity.

(2) The recipient has promptly submitted all required reports.

(3) The recipients has shown satisfactory progress in achieving the objectives of the project and has met all material terms and conditions of the award.

(4) The recipient's management practices have provided adequate stewardship of grantor agency funds.

Continuation Award—Missing and Exploited Children Comprehensive Action Program (MCAP) (\$404,448; Project Period 10/1/88–6/30/92)

This award will provide continuation funding for the Missing and Exploited Children Comprehensive Action Program funded in 1988. MCAP is a multi-agency juvenile services coordination program. Primary program activity provides directed and supportive training and technical assistance to encourage, guide, and focus community development and planning on priority missing and exploited children issues. This award will provide for the administration sites of the training and technical assistance program products developed during the initial stages of the program in four sites.

Continuation Award—State Missing Children Clearinghouses Specialized Training (\$225,000; 9/30/91–3/31/92)

This award will provide continuation funding for the National Center for Missing and Exploited Children for the purpose of providing stipends for use by State Missing Children Clearing-houses in obtaining specialized training in the recovery and reunification of missing children. Stipends will cover training

and transportation expenses for Clearinghouse personnel.

Continuation Award—Federal Law Enforcement Training Center—Interagency Agreement; (\$150,000; Project Period 4-15-91/12-31-92)

This transfer of funds to the Department of the Treasury for the Federal Law Enforcement Training Center's law enforcement program will support a 2-day program for local criminal justice agencies on the recognition and investigation of sexual abuse and exploitation of missing children. The program will focus on the state-of-the-art techniques for investigating the missing child and will include issues relative to runaways, abductions, parental kidnapping, and other missing children categories. The 2-day program will be conducted at the local level as a technical assistance request.

Continuation Award—Investigation and Prosecution of Parental Abduction Cases; (\$150,000; Project Period 10/1/88–12/31/92)

The American Prosecutors Research Institute (APRI) received an award to implement a training and technical assistance program. The project has focused on the development of a directory of prosecutors who prosecute parental abduction cases, the development of a trial manual, the holding of a conference on investigation and prosecution of parental abduction cases, and the provision of technical assistance. This award will continue the project for an additional twelve months enabling APRI to conduct training conferences and continue its technical assistance efforts. In addition, APRI will serve as a resource center on the issues related to the investigation and prosecution of parental abduction.

For all assistance awards funded under Title IV of the Act (Missing Children), priority will be given, where applicable, to applicants who utilize volunteers in locating, reuniting, and providing other services to missing children and their families. In order to receive assistance for a fiscal year, applicants must give assurance that they will expend, to the greatest extent practicable for such fiscal year, an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

In considering grant applications under this title, the Administrator will give priority, where applicable, to

applicants who have demonstrated or demonstrate ability in successfully:

- Locating missing children or locating and reuniting missing children with their legal custodians;
- Providing other services to missing children or their families; or
- Conducting research relating to missing children.

Applicants will be expected to provide documentation of their success in achieving the above.

Robert W. Sweet, Jr.,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Walter W. Barbee,

Acting General Council.

[FR. Doc. 91-12960 Filed 5-31-91; 8:45 am]

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Registered Federal Reporter

Monday
June 3, 1991

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 412 and 413

Medicare Program; Changes to the
Inpatient Hospital Prospective Payment
System and Fiscal Year 1992 Rates;
Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 412 and 413

[BPD-711-P]
RIN 0938-AE90

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1992 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the Medicare inpatient hospital prospective payment system to implement necessary changes arising from legislation and our continuing experience with the system. In addition, in the addendum to this proposed rule, we are proposing changes in the amounts and factors necessary to determine prospective payment rates for Medicare inpatient hospital services. These changes would be applicable to discharges occurring on or after October 1, 1991. We are also setting forth proposed rate-of-increase limits for hospitals and hospital units excluded from the prospective payment system.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 2, 1991.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-711-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept audio, visual, or facsimile (FAX) copies of comments.

If comments concern information collection recordkeeping requirements, please address a copy of comments to: Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3206, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron.

In commenting, please refer to file code BPD-711-P. Comments received

timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

Copies: To order copies of the Federal Register containing this document, send your request to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Specify the date of the issue requested and enclose a check payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783-3238 or by faxing to (202) 275-6802. The cost for each copy (in paper or microfiche form) is \$1.50. In addition, you may view and photocopy the Federal Register document at most libraries designated at U.S. Government Depository Libraries and at many other public and academic libraries that receive the Federal Register. Ask the order desk operator for the location of the Government Depository Library nearest to you.

FOR FURTHER INFORMATION, CONTACT: Barbara Wynn, (301) 966-4529.

To obtain data used in deriving the standardized amounts and DRG relative weights, see section VII.B of the preamble, Public Requests for Data.

SUPPLEMENTARY INFORMATION:

I. Background

A. Summary

Under section 1886(d) of the Social Security Act (the Act), a system of payment for acute inpatient hospital stays under Medicare Part A (Hospital Insurance) based on prospectively-set rates was established effective with hospital cost reporting periods beginning on or after October 1, 1983. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). The regulations governing the inpatient hospital prospective payment system are located in 42 CFR part 412.

On September 4, 1990, we published a final rule (55 FR 35990) to implement the prospective payment system for Federal fiscal year (FY) 1991. Since publication of the September 4, 1990 final rule, two pieces of legislation that affect payment for hospitals have been enacted. These are the Continuing Resolution of October 1, 1990 (Pub. L. 101-403) and the Omnibus Budget Reconciliation Act of

1990 (Pub. L. 101-508), enacted October 1, 1990 and November 5, 1990, respectively. In response to these public laws and the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239), enacted on December 19, 1989, we have published several rules that affect payment for hospital operating costs under the inpatient hospital prospective payment system. The discussion below summarizes the relevant changes to the inpatient hospital prospective payment system that have been implemented since the September 4, 1990 final rule and includes changes that will be implemented in the final rule with comment period concerning the geographic classification of hospitals. We anticipate that this final rule will be published in the Federal Register on June 4, 1991.

1. Summary of September 6, 1990 Interim Final Rule With Comment Period

One factor that is taken into account in the determination of prospective payment rates is the location of each hospital; that is, the geographic area where a hospital is located and whether it is a rural area, a large urban area, or an other urban area. This location affects the determination of the standardization amount and the wage index value used for determining the labor-related portion of a hospital's prospective payment rate.

Section 6003(h) of Public Law 101-239 added section 1886(d)(10) to the Act (later amended by section 4002(h) of Pub. L. 101-508) to provide for the establishment of the Medicare Geographic Classification Review Board (MGCRB) to consider applications by hospitals for geographic reclassification. On September 6, 1990, we published an interim final rule with comment period, Geographical Classification Review Board; Procedures and Criteria (55 FR 36754), to implement section 6003(h)(1) of Public Law 101-239. That interim final rule provided for the establishment of the MGCRB, including procedures and criteria to be used by the MGCRB in making determinations about hospital reclassification. The interim final rule included the following specific provisions that affect payments under the Medicare inpatient hospital prospective payment system:

- The MGCRB may redesignate a hospital to an adjacent rural or urban area with which it has a close proximity for the purposes of using the other area's standardized amount, wage index value, or both. (A rural referral center or a sole community hospital may be redesignated to an area that is not an adjacent county.)

—To be redesignated to an adjacent area for the purpose of using that area's standardized amount, a hospital must demonstrate that its incurred costs are comparable to hospital costs in the adjacent area (that is, a hospital's case-mix adjusted cost per discharge must equal at least 75 percent of the difference between its current payment rate and the rate it would receive if redesignated) and that it has the necessary close proximity with that area (that is, an urban hospital must be no more than 15 miles and a rural hospital no more than 35 miles from the adjacent area; or at least 50 percent of the hospital's employees must reside in the adjacent area).

—To be redesignated to an adjacent area for the purpose of using that area's wage index, a hospital must demonstrate that its incurred wage costs are comparable to hospital wage costs in the adjacent area (that is, the hospital's average hourly wage must be at least 85 percent of that of hospitals in the adjacent area; or that the hospital's average wage weighted for occupational mix must be at least 90 percent of that of hospitals in the adjacent area) and that it has the necessary close proximity with that area.

- Alternative criteria were provided for hospitals located in New England County Metropolitan Areas (NECMAS) that seek to be redesignated to different urban areas.

- A hospital that is reclassified only for wage index purposes is not considered urban for any purpose other than its labor market area (for example, the disproportionate share hospital formula). A hospital that is reclassified only for purposes of the standardized payment amounts is considered urban for all purposes under section 1886(d)(2)(D) of the Act, except for the use of the wage index. We indicated that section 1886(d)(8)(C) of the Act was silent with respect to how reclassifications of individual hospitals are to be treated. Therefore, we stated in the September 6, 1990 interim final rule that in the proposed rule that sets forth the changes to the prospective payment system for FY 1992, we would propose a methodology to address the application of the wage index where not all hospitals in a county or MSA have been redesignated (55 FR 36764).

- The MGCRB may also redesignate all the hospitals in a rural county to an adjacent urban area if all the hospitals in the rural county apply jointly and demonstrate that as a group they meet the applicable proximity, cost, and wage

criteria. The effect of the reclassifications on the wage index value of the affected areas is the same as the effect of redesignations of certain rural counties as urban under section 1886(d)(8)(B) of the Act. Both situations are dependent on the hypothetical impact the wage data for the reclassified hospitals would have on the wage index value of the area to which they have been reclassified, as provided in section 1886(d)(8)(C) of the Act.

- As required under section 1886(d)(8)(D) of the Act, the effect of decisions of the MGCRB must be budget neutral. Further, aggregate payments to those rural hospitals not affected by geographic reclassification must remain constant. Therefore, a proportional adjustment to the standardized amount for urban hospitals must be made to ensure that the total aggregate payments made in the prospective payment system are neither greater nor lesser than would otherwise be made.

- The MGCRB is required to issue decisions on hospital applications no later than 180 days after October 1, that is, by the following March 30. This time limit ensures that the effects of geographic reclassification can be included in computing the adjusted prospective payment rates that are required to be published in the *Federal Register* by September 1 of each year.

- A redesignation is effective for 1 year beginning with discharges occurring on the first day of the Federal Fiscal year after the year in which an application is filed. The first hospital reclassifications under this provision will take effect on October 1, 1991.

2. Summary of January 7, 1991 Notice

As noted above, Public Law 101-403 was enacted on October 1, 1990, and Public Law 101-508 was enacted on November 5, 1990. On January 7, 1991, we published a notice, *Legislative Changes Concerning Payment to Hospitals for Federal Fiscal Year 1991* (56 FR 562), announcing the provisions of section 115 of Public Law 101-403 and sections 4001 (a) and (c), 4002 (e) and (f), 4007, 4151, and 4158 of Public Law 101-508 that were self-implementing and were effective before January 1, 1991. That notice announced the following changes in payment under the prospective payment system:

- The 15 percent reduction in payments for capital-related costs of inpatient hospital services was extended through portions of cost reporting periods or discharges occurring during the period beginning October 1, 1990 and ending September 30, 1991. Sole community hospitals and

rural primary care hospitals are exempt from this provision.

- The regional floor provision was extended through discharges occurring before September 30, 1993. A budget neutrality adjustment factor of .99819 for the regional floor provision was applied to the payment rates that were effective October 1, 1990 through October 20, 1990. Effective October 21, 1990, the regional floor provision was no longer subject to budget neutrality.

- The offset for physician assistant services was eliminated. This provision would have allowed the Secretary to offset DRG payments for services performed by physician assistants in the part of the hospital that is subject to the prospective payment system.

- A freeze was applied in the level of Medicare Part A payments and in the level of payment for graduate medical education per resident for the period October 21, 1990 through December 31, 1990. The market basket percentage increase applicable to prospective payment hospitals was deemed to be 0 percent for discharges occurring on or after October 20, 1990 and before January 1, 1991. The hospital-specific rate applicable to sole community hospitals and Medicare-dependent, small rural hospitals was reduced to remove the market basket percentage increase reflected in the hospital-specific rate applicable to discharges during this period. For hospitals excluded from the prospective payment system, the market basket percentage increase was deemed to be 0 percent for the portion of cost reporting periods occurring during the period October 21, 1990 through December 31, 1990. The percentage change in the Consumer Price Index for All Urban Consumers that is applicable to graduate medical education (GME) per resident amounts was deemed to be 0 percent for the payment of Medicare inpatient GME costs for the portion of cost reporting periods occurring during the period October 21, 1990 through December 31, 1990.

- The use of the area wage index applicable to prospective payment hospitals that was in effect on September 30, 1990 was extended to discharges occurring on or after October 1, 1990, through December 31, 1990.

3. Summary of January 7, 1991 Final Rule With Comment Period

Also on January 7, 1991, we published a final rule with comment period, *Mid-Year FY 1991 Changes to the Inpatient Hospital Prospective Payment System* (56 FR 568), to implement several provisions of section 4002 of Public Law

101-508 that affect Medicare payment for inpatient hospital services and that took effect with discharges occurring on or after January 1, 1991. That final rule with comment period implemented the following legislative changes to the inpatient hospital prospective payment system:

- The percentage increase in the standardized amounts applicable to rural hospitals for discharges occurring on or after January 1, 1991 and before October 1, 1991 is the market basket percentage increase minus 0.7 percentage points (that is, 4.5 percent). The percentage increase in the average standardized amounts applicable to large urban hospitals and other urban hospitals for the same period is equal to the market basket percentage increase minus 2.0 percentage points (that is, 3.2 percent).

- For discharges occurring on or after January 1, 1991 and before October 1, 1993, the hospital wage index will be based solely on the 1988 hospital wage survey data with no phase-in period. Therefore, the one-year phase-in of the updated wage index that would have limited the percentage change in a wage index value to 8 percent plus 50 percent of the difference between the 8 percent threshold and the new wage index value was eliminated. In addition, we incorporated all corrections of wage data that had been identified since publication of the September 4, 1990, final rule.

- The methodology under section 1886(d)(8)(C) for determining the wage index applicable to rural counties whose hospitals are treated as urban under section 1886(d)(8)(B) or (d)(10) of the Act was revised. Effective for discharges occurring on or after January 1, 1991, if including the wage data for the redesignated hospitals reduces the wage index value for an urban area by more than one percentage point, the wage index value for that urban area is to be calculated and applied separately to hospitals located in that urban area (excluding the redesignated hospitals). In lieu of a county-specific wage index value, the hospitals that are redesignated are to use the wage index value of the MSA that results from including the wage data of the redesignated hospitals in the determination. The wage index value for the redesignated hospitals cannot be less than the Statewide rural wage index value. The revised methodology has already been applied to hospital reclassifications under section 1886(d)(8)(B) of the Act and will also be applicable to reclassifications under section 1886(d)(10) of the act that are

effective with discharges occurring on or after October 1, 1991.

- The sunset provision that would have ended all adjustments to hospitals that serve a disproportionate share of low income patients effective October 1, 1995, was repealed. In addition, the disproportionate share payments applicable to certain hospitals were increased as follows:

- For discharges occurring on or after January 1, 1991 and before October 1, 1993, urban hospitals with 100 or more beds and rural hospitals with 500 or more beds that have a disproportionate patient percentage greater than 20.2 percent will receive 5.62 percent plus 70 percent of the difference between the hospital's disproportionate patient percentage and 20.2 percent. For discharges occurring on or after October 1, 1993 and before October 1, 1994, these hospitals will receive 5.88 percent plus 80 percent of the difference between the hospital's disproportionate share percentage and 20.2 percent. Effective with discharges occurring on or after October 1, 1994, these hospitals will receive 5.88 percent plus 82.5 percent of the difference between the hospital's disproportionate share percentage and 20.2 percent.

- For urban hospitals with 100 or more beds or rural hospitals with 500 or more beds and a disproportionate share percentage of 20.2 percent or less, the hospital's disproportionate share adjustment will be increased to 2.5 percent plus 65 percent of its disproportionate share patient percentage and 15 percent effective with discharges occurring on or after October 1, 1993.

- The disproportionate share adjustment for urban hospitals with 100 or more beds receiving more than 30 percent of net inpatient revenues from State and local government sources for the care of indigent patients will be increased from 30 to 35 percent for discharges occurring on or after October 1, 1991.

(The standardized amounts were not restandardized to take into account the effect of these additional payments to disproportionate share hospitals.)

4. Summary of Final Rule With Comment Period Concerning Geographic Classification of Hospitals

Section 4002(h) of Pub. L. 101-508 contained several provisions relating to the geographic classification of hospitals. In response to these provisions and to the comments received on the September 6, 1990, interim final rule with comment period,

we anticipate publishing a final rule with comment period, Medicare Geographic Review Board—Procedures and Guidelines on June 4, 1991. This final rule will implement the following changes from the September 6, 1990, interim final rule:

- The definition of a sole community hospital (SCH) will be revised to state that a hospital located in either a large urban area or another urban area can qualify for SCH status if it is located more than 35 road miles from the nearest like hospital. However, if a hospital's status as a rural referral center, sole community hospital, or a Medicare-dependent rural hospital is dependent upon its being located in a rural area, it will lose its special status if it qualifies for reclassification to an urban area for its standardized amount.

- Beginning October 1, 1991, for applications for geographic reclassification that would be effective in FY 1993, all hospitals in a county located in an urban area can apply jointly for reclassification to another urban area.

- Changes will be made in the MGCRB and administrative review procedures, including the addition of the Secretary's review of an MGCRB decision on the motion of the Administrator.

- Because hospitals could not determine at the time they submitted applications for geographic reclassification to the MGCRB how their wage index values would be computed, hospitals will be allowed to withdraw their applications even though an MGCRB decision had been made. A request for withdrawal of an application after issuance of an MGCRB decision will be permitted only for a FY 1992 application, provided that the request for withdrawal is received within 60 days of publication of the final rule with comment period. If that final rule is published on June 4, 1991, as anticipated, the request for withdrawal must be received by August 5, 1991.

B. Major Contents of This Proposed Rule

This proposed rule would be effective for discharges occurring on or after October 1, 1991. Following is a summary of the major changes that we are proposing to make to the prospective payment system:

1. Changes to the DRG Classification and Weighing Factors

As required by section 1886(d)(4)(C) of the Act, we must adjust the DRG classifications and weighing factors at least annually. Our proposed changes

for FY 1992 are set forth in section II of this preamble.

2. Changes to the Hospital Wage Index

In section III of this preamble, we discuss revisions to the wage index and, in particular, the revisions necessary because of hospital reclassifications.

3. Other Decisions and Regulations Changes

In section IV of this preamble, we discuss several current provisions of the regulations in 42 CFR parts 412 and 413 and set forth certain proposed changes concerning the following:

- Payment for Hemophilia Blood Clotting Factor.
- Retroactive Adjustments for Provisionally Excluded Rehabilitation Hospitals and Units.
- Outlier Payments.
- Rural Referral Center Criteria.
- Indirect Medical Education Costs.
- Ceiling on Rate of Hospital Cost Increases.
- Direct Graduate Medical Education Payments.
- Funding of Depreciation.

4. Determining Prospective Payment Rates and Rate-of-Increase Limits

In the addendum to this proposed rule, we set forth proposed changes to the amounts and factors for determining the FY 1992 prospective payment rates. We are also proposing new target rate percentages for determining the rate-of-increase limits for cost reporting periods beginning in FY 1992 for hospitals and hospital units excluded from the prospective payment system.

5. Impact Analysis

In appendix A, we set forth an analysis of the impact that the proposed changes described in this rule would have on affected entities.

6. Report to Congress on the Update Factor

Section 1886(e)(3)(B) of the Act requires that the Secretary report to Congress no later than March 1, 1991 on our initial estimate of an update factor for FY 1992 for both prospective payment hospitals and hospitals excluded from the prospective payment system. This report is included as appendix B of this proposed rule.

7. Proposed Recommendation of Update Factor

As required by sections 1886 (e)(4) and (e)(5) of the Act, appendix C provides our recommendation of the appropriate percentage change for FY 1992 for the following:

- Large urban, other urban, and rural average standardized amounts for inpatient hospital services paid for under the prospective payment system.

- Target rate-of-increase limits to the allowable operating costs of inpatient hospital services furnished by hospitals and hospital units excluded from the prospective payment system.

8. Discussion of Prospective Payment Assessment Commission Recommendations

The Prospective Payment Assessment Commission (ProPAC) is directed by the provisions of section 1886(e)(2)(A) of the Act to make recommendations on the appropriate percentage change factor to be used in updating the average standardized amounts beginning with FY 1986 and thereafter. In addition, section 1886(e)(2)(B) of the Act, as added by section 4002(g) of Public Law 101-508, directs ProPAC to make recommendations regarding changes in each of the Medicare payment policies under which payments to an institution are prospectively determined. In particular, the recommendations relating to the inpatient hospital prospective payment system are to include recommendations concerning the number of DRGs used to classify patients, adjustments to the DRGs to reflect severity of illness, and changes in the methods under which hospitals are paid for capital-related costs. As set forth in section 1886(e)(3)(A) of the Act, the recommendations required of ProPAC under sections 1886(e)(2) (A) and (B) of the Act are to be reported to Congress not later than March 1 of each year.

We are printing ProPAC's March 1, 1991 report, which includes its recommendations, as appendix D of this document. The recommendations, and the actions we are proposing to take with regard to them (when an action is recommended), are discussed in detail in the appropriate sections of this preamble or the appendixes of this proposed rule. Those recommendations that are not specifically relevant to matters presented below are discussed in section VI of this preamble. For a brief summary of the ProPAC recommendations, we refer the reader to pages 5 through 7 of the ProPAC report as set forth in appendix D of this proposed rule. ProPAC also produced technical appendixes in its March 1, 1991 report that provide background material and detailed analyses used in preparation of the ProPAC recommendations. For further information relating specifically to the ProPAC report or to obtain a copy of the

technical appendixes, contact ProPAC at (202) 453-3986.

II. Proposed Changes to DRG Classifications and Weighting Factors

A. Background

Under the prospective payment system, we pay for inpatient hospital services on the basis of a rate per discharge that varies by the DRG to which a beneficiary's stay is assigned. The formula used to calculate payment for a specific case takes an individual hospital's payment rate per case and multiplies it by the weight of the DRG to which the case is assigned. Each DRG weight represents the average resources required to care for cases in that particular DRG relative to the average resources used to treat cases in other DRGs.

Congress recognized that it would be necessary to recalculate the DRG relative weights periodically to account for changes in resource consumption. Accordingly, section 1886(d)(4)(C) of the Act requires that the Secretary adjust the DRG classifications and weighting factors annually beginning with discharges occurring in FY 1988. These adjustments are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. The proposed changes to the DRG classification system and the proposed recalibration of the DRG weights for discharges occurring on or after October 1, 1991 are discussed below.

B. DRG Reclassification

1. General

Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to four additional diagnoses, and up to three procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Edition, Clinical Modification (ICD-9-CM). The intermediary enters the information into its claims system and subjects it to a series of automated screens called the Medicare Code Editor (MCE). These screens are designed to identify cases that require further review before classification into a DRG can be accomplished.

After screening through the MCE and any further development of the claims, cases are classified by the GROPER software program into the appropriate DRG. The GROPER program was

developed as a means of classifying each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). It is used both to classify past cases in order to measure relative hospital resource consumption to establish the DRG weights and to classify current cases for purposes of determining payment.

Currently, there are 487 DRGs in 25 major diagnostic categories (MDCs). Most MDCs are based on a particular organ system of the body (for example, MDC 6, Diseases and Disorders of the Digestive System); however, some MDCs are not constructed on this basis since they involve multiple organ systems (for example, MDC 22, Burns).

Except for a few special cases, principal diagnosis determines MDC assignment. Within most MDCs, cases are then divided into surgical DRGs (based on a surgical hierarchy that orders individual procedures or groups of procedures by resource intensity) and medical DRGs. Medical DRGs generally are differentiated on the basis of diagnosis and age. Some surgical and medical DRGs are further differentiated based on the presence or absence of complications or comorbidities (hereafter CC). Generally, GROUPEX does not consider other procedures; that is, nonsurgical procedures or minor surgical procedures generally not done in an operating room are not listed as operating room (OR) procedures in the GROUPEX decision tables. However, there are a few non-OR procedures that do affect DRG assignment for certain principal diagnoses, such as extracorporeal shock wave lithotripsy for patients with a principal diagnosis of urinary stones.

In the September 4, 1990 final rule, we made several significant changes to the DRG system (55 FR 36010). We added two new DRGs for tracheostomies and one each for liver and bone marrow transplant cases. Cases are assigned to these new DRGs on the basis of procedure codes rather than first assigning them to an MDC based on the principal diagnosis. We also added two new MDCs: One for multiple significant trauma cases (MDC 24) and one for human immunodeficiency virus (HIV) infection cases (MDC 25). Cases are assigned to these two MDCs before assignment to the other MDCs. These changes were implemented to help improve the amount of resource variation explained by DRGs.

The changes we are proposing to make to the DRG classification system for FY 1992 are set forth below.

2. Reassignment of Acute Myocardial Infarction (AMI)

Effective with discharges on or after October 1, 1989, we required the use of a new fifth digit subclassification within the diagnostic category 410 (Acute myocardial infarction). (See Table 6A—New Diagnosis Codes, in section IV of the addendum to the September 1, 1989 final rule (54 FR 36547).) This subclassification distinguishes an initial episode of care from a subsequent episode of care. A fifth digit of "1" (initial episode of care) is used to designate the acute phase of care regardless of the location of the treatment. It includes cases that are transferred for care and treatment within the acute phase of care. Any subsequent episode of care for another AMI is also assigned a fifth digit of "1." All of these cases are assigned, as they have been in the past, to DRG 121 or 122 (Circulatory Disorders with AMI With and Without Cardiovascular Complications, Discharged Alive) or DRG 123 (Circulatory Disorder With AMI, Expired) or, in the case of a pacemaker implantation, to DRG 115 (Permanent Cardiac Pacemaker Implant with AMI, Heart Failure or Shock).

A fifth digit of "2" is used to designate observation, treatment, or evaluation of AMI within 8 weeks of onset, but following the acute phase, or in the healing state in which the episode of care may be for related or unrelated conditions. All of these cases are currently assigned to DRGs 132 or 133 (Atherosclerosis) ¹ if AMI, subsequent episode of care, is identified as the principal diagnosis. We also assign principal diagnosis with a fifth digit of "0" to these DRGs. The fifth digit "0" is used when the episode of care is unspecified. Without the creation of the fifth digit subclassification, we would have continued to be unable to distinguish the resource-intensive, clinically-coherent group of patients admitted to the hospital with an AMI in the acute phase from the less resource-intensive and clinically different groups of patients who are not suffering an acute phase AMI but who are readmitted to the hospital within 8 weeks of an AMI or who are first admitted to the hospital after the acute phase has ended.

Our reasons for assigning the nonacute (that is, subsequent and unspecified episode of care) AMI cases in FY 1990 to the atherosclerosis DRGs

rather than the AMI DRGs relate to two of the basic characteristics of the DRG patient classification system. First, each DRG should contain cases with a similar pattern of resource intensity and, second, each DRG should contain cases that are similar from a clinical perspective.

With the availability of the FY 1990 Medicare provider analysis and review file (MEDPAR) data, we are able to assess the appropriateness of assigning the nonacute AMI cases to DRGs 132 and 133. Based on our analysis, we are proposing to reclassifying the nonacute AMI cases effective with discharges occurring on or after October 1, 1991. The average charges for these AMI cases are higher than the average charges for the other cases assigned to DRGs 132 and 133. Because the nonacute AMI cases are not clinically cohesive with any specific set of cases in other MDC 5 medical DRGs, we are proposing to reassign them to DRGs 144 and 145 (Other Circulatory Diagnoses). The average charges of the cases currently assigned to these DRGs are fairly equivalent to the average charges for the nonacute AMIs. Although we are somewhat reluctant to move these cases from a more well-defined DRG to the "other" category, we believe that the action is justified by the fact that these cases would be underpaid if they remained in DRGs 132 and 133.

We considered creating a new DRG category for these cases. However, in reviewing the MEDPAR data, we identified several problems with the nonacute AMI cases that are assigned to DRGs 132 and 133. As we discussed above, both the "2" and "0" fifth digit codes are currently assigned to those DRGs. In most sets of codes where there is a classification for "unspecified," we expect the specified cases to be the vast majority of the codes. In only a small number of cases should the medical record not be specific enough to allow accurate coding. However, in DRGs 132 and 133, the unspecified "0" fifth digit is reported almost five times more often than the subsequent episode of care "2" fifth digit. In addition, based on the FY 1990 MEDPAR data, these unspecified cases had an average charge that was approximately 25 percent higher than the average charge of the subsequent episode cases. This finding, and correspondence we have received over the past 2 years concerning how these fifth digits are to be coded, lead us to believe that coding inaccuracies may be in part responsible for the higher charges for these cases. We suspect that a percentage of cases that are coded with the "0" fifth digit are actually acute

¹ A single title combined with two DRG numbers is used to signify pairs, the first DRG of which is for cases with CC and the second of which is for cases without CC. If a third number is included, it represents cases of patients who are age 0-17.

AMI cases that were not coded correctly.

We have consulted with our medical coding policy staff, and they have agreed to undertake educational action on these codes. We believe that the medical records staff in hospitals may be confused in coding cases that are still in the acute phase but where the patient was not brought to the hospital immediately after incurring the AMI (for example, when the patient has been transferred). We will continue to monitor these cases, and we may propose other classification changes when we are more confident that the cases are correctly coded and, thus, can be accurately evaluated.

3. Major Joint and Limb Reattachment Procedures (DRG 209)

Effective October 1, 1989, we introduced new procedure codes to distinguish initial hip replacement procedures from revision of hip replacement procedures. (See Table 6B—New Procedures Codes, in section IV of the addendum to the September 1, 1989 final rule (54 FR 36549).) In response to comments we received concerning that change, we agreed to review the charges for these procedures as part of our analysis of DRG changes for FY 1992. Our review of the FY 1990 MEDPAR data has revealed that, although the initial hip replacements cases assigned to DRG 209 are less expensive than the revision procedures, the difference is not enough to justify our creating a separate DRG or reassigning the revision cases.

However, during our review, we did note that the cases assigned to DRG 209 fall into two distinct groups based on the procedure performed and the corresponding average charges. The procedures of the lower extremity (that is, hip, thigh, leg, knee, ankle, and foot) have charges that are about 50 percent higher than those of the upper extremity (that is, shoulder, elbow, arm, wrist, and hand). Based on this finding, we are proposing to assign each of these groups of procedures to a separate DRG. We propose to revise DRG 209 by changing the title to "Major Joint and Limb Reattachment Procedures of Lower Extremity" and removing the upper extremity procedures from this DRG assignment. DRG 209 would include only the remaining lower extremity procedures as follows:

- 81.51 Total hip replacement
- 81.52 Partial hip replacement
- 81.53 Revision of hip replacement
- 81.54 Total knee replacement
- 81.55 Revision of knee replacement
- 81.56 Total ankle replacement
- 84.26 Foot reattachment

- 84.27 Lower leg or ankle reattachment
- 84.28 Thigh reattachment

We would create a new DRG, DRG 491 (Major Joint and Limb Reattachment Procedures of Upper Extremity). The upper extremity procedures from DRG 209 would be assigned to DRG 491. These procedures are as follows:

- 81.73 Total wrist replacement
- 81.80 Total shoulder replacement
- 81.81 Partial shoulder replacement
- 81.84 Total elbow replacement
- 84.23 Forearm, wrist, or hand reattachment
- 84.24 Upper arm reattachment

These DRG classification changes would reduce the variation in the charges of the cases within each of these DRGs, as well as improve the clinical coherency of each DRG.

4. Chemotherapy (DRG 410)

Under the DRG classification system, patients admitted for chemotherapy for cancer (principal diagnosis of V581 (Chemotherapy) or V672 (Chemotherapy follow-up)) are assigned to DRG 410 (Chemotherapy) regardless of the type of cancer indicated by the secondary diagnosis. Therefore, DRG 410 represents a significantly heterogeneous group of cases that not only vary clinically in terms of diagnosis, prognosis, and severity but also vary widely in resource consumption, as measured by hospital charges.

Evaluation of the types of cancer assigned to DRG 410, as identified by secondary diagnosis codes 140.0 through 208.9, indicated a high degree of variance, with a few cases utilizing a disproportionate share of the financial resources. Further analysis of these cases indicated that the acute leukemia patients incurred significantly higher charges than patients with other types of cancer. Separating the acute leukemia cases greatly reduces the variance within DRG 410, increasing the homogeneity of that DRG.

DRGs are intended to represent groups of hospital patients who are clinically similar to one another and are relatively homogenous with respect to resource use. In order to achieve this goal and to improve payment equity, we are proposing the addition of a DRG for chemotherapy patients with a secondary diagnosis of acute leukemia. This new DRG 492 (Chemotherapy with Acute Leukemia as Secondary Diagnosis) would consist of patients with a principal diagnosis code of V581 or V672 and a secondary diagnosis code of acute leukemia (204.0, 205.0, 206.0, 207.0, or 208.0). Cases with a principal diagnosis of V581 or V672 and any other secondary diagnosis would continue to

be assigned to DRG 410, with the DRG title revised to "Chemotherapy Without Acute Leukemia as Secondary Diagnosis." The addition of the proposed DRG 492 would reduce the variance in charges within these two DRGs and maximize the differences between the groups.

We note that effective October 1, 1991, a fifth digit has been added to the existing diagnosis codes for leukemia, making it possible to distinguish between cases in remission and those not in remission. (See Table 6a—New Diagnosis Codes, in section IV of the addendum to this proposed rule.) We would continue to assign these cases to DRGs based on the current 4-digit code assignments. Thus, all acute leukemia cases admitted for chemotherapy would be classified in DRG 492, whether they are in remission or not. When we have collected data using the new codes and are able to analyze the cases in remission compared to those not in remission, we will evaluate whether it will be necessary or appropriate to consider further distinctions in DRG assignment.

5. Multiple Significant Trauma (MDC 24)

As discussed above, MDC 24 (Multiple Significant Trauma) was added to the DRG system effective October 1, 1990 with four DRGs to classify multiple significant trauma cases. Discharges with a principal diagnosis of trauma (diagnosis codes 800.00 through 904.9, 910.0 through 929.9, and 950.0 through 959.9) group to MDC 24 if at least two significant trauma diagnosis codes from two different body site categories are reported as either principal or secondary diagnoses. We recognize eight different body site categories: head, chest, abdomen, kidney, urinary, pelvis and spine, upper limb, and lower limb. The eight body site categories and the diagnosis codes associated with each category were set forth in Table 6h of section IV of the addendum of the September 4, 1990 final rule (55 FR 36137). The DRGs in MDC 24 are the following:

- DRG 484 Craniotomy for Multiple Significant Trauma
- DRG 485 Limb Reattachment, Hip and Femur Procedures for Multiple Significant Trauma
- DRG 486 Other OR Procedures for Multiple Significant Trauma
- DRG 487 Other Multiple Significant Trauma

Since the implementation of this change, we have discovered that there were some omissions in our list of diagnosis codes by body site. Although

these codes are included as principal diagnosis codes that will allow a case to group to MDC 24, they were not included in any of the body site categories. We are proposing to add these diagnosis codes to the appropriate body site category as follows: Codes 839.00 through 839.18 (Dislocation of cervical vertebrae) would be added to the "Pelvis and Spine" body site; codes 874.10 (Open wound of larynx with trachea, complicated) and 874.11 (Open wound of larynx, complicated) would be added to the "Chest" category; and code 927.9 (Crushing injury of upper limb, unspecified site) to the "Upper Limb" category. We are also proposing to move diagnosis code 874.12 (Open wound of trachea, complicated) from the "Head" to the "Chest" category and diagnosis code 954.9 (Injury to unspecified nerve of trunk) from the "Upper Limb" to the "Pelvis and Spine" category. These latter codes were incorrectly assigned in the September 4, 1990 final rule.

In addition to these changes, we are proposing to move three hip replacement procedures (procedure codes 81.51 (Total hip replacement), 81.52 (Partial hip replacement), and 81.53 (Revision of hip replacement)) from DRG 486 to DRG 485. We have analyzed the charges for these cases and found that they are more similar to those of cases in DRG 485 than those in DRG 486. Since these hip replacement procedures are similar clinically and in terms of resource use to the cases in DRG 485, we are proposing to remove them from DRG 486 and assign them to DRG 485.

6. Addition of HIV-Related Conditions to MDC 25 (HIV Infections)

As noted above, we added a new MDC 25 for Human Immunodeficiency Virus (HIV) Infections as a part of our FY 1991 DRG changes, which became effective October 1, 1990. HIV infections are identified by diagnosis codes 042.0 through 042.9 (HIV infection with specified conditions), 043.0 through 043.9 (HIV infection causing other specified conditions), and 044.0 through 044.9 (Other HIV infection). (See discussion in the September 4, 1990 final rule (55 FR 36019).) Cases are assigned to DRGs for HIV infection when the principal diagnosis is one of the HIV infection diagnosis codes (listed above) or when one of these codes is a secondary diagnosis and the principal diagnosis is a condition related to HIV infection (see below).

The three DRGs for HIV-infected patients are as follows:

DRG 488 HIV with Extensive OR Procedure

DRG 489 HIV with Major Related Condition

DRG 490 HIV with or without Other Related Condition

The OR procedures allowed for DRG 488 are all OR procedures other than nonextensive OR procedures (those procedures that result in assignment to DRG 477 when the procedure is unrelated to the principal diagnosis). If the HIV-related condition involves a disease or disorder of the central nervous system, a malignancy, an infection, or other major related condition, the case is assigned to DRG 489. The remaining cases, with or without an HIV-related condition, group to DRG 490.

The HIV-related conditions qualifying for classification to MDC 25 are limited to those conditions identified by the Centers for Disease Control (CDC) as being HIV-related. These conditions are listed in Volume 1 of ICD-9-CM in the "Includes Only" notes under diagnosis codes 042.0, 042.1, 042.2, 043.1, 043.3, and 044.0. In addition, we listed all the HIV-related conditions in Table 6i in section IV of the addendum to the September 4, 1990 final rule (55 FR 36137). In that document, we stated that as CDC updated and expanded the list of HIV-related conditions, we would add any changes made to our classification system (55 FR 36021). Effective October 1, 1991, CDC will expand the list of diagnoses identified as HIV-related conditions, and they will be added to the ICD-9-CM "Includes Only" notes under the HIV infection diagnosis codes. We are proposing to add these diagnoses to our list of HIV-related conditions. Thus, effective for discharges occurring on or after October 1, 1991, if any of these conditions is listed as principal diagnosis with a secondary diagnosis of HIV infection, it will be assigned to MDC 25 and one of the HIV DRGs. We have listed these additional HIV-related conditions in Table 6i, Additional HIV-Related Conditions Necessary for Assignment to MDC 25, in section IV of the addendum to this proposed rule. In that table, we have indicated which conditions are considered to be major and thus would be assigned to DRG 489 when no extensive OR procedure is performed.

7. Surgical Hierarchies

Some inpatient stays entail multiple surgical procedures, each one of which, occurring by itself, could result in assignment of the case to a different DRG within the MDC to which the principal diagnosis is assigned. It is, therefore, necessary to have a decision rule by which these cases are assigned

to a single DRG. The surgical hierarchy, an ordering of surgical classes from most to least resource intensive, performs that function. Its application ensures that cases involving multiple surgical procedures are assigned to the DRG associated with the most resource-intensive surgical class.

Because the relative resource intensity of surgical classes can shift as a function of DRG reclassification and recalibration, we reviewed the surgical hierarchy of each MDC, as we have for previous reclassifications, to determine if the ordering of classes coincided with the intensity of resource utilization, as measured by the same billing data used to compute the DRG relative weights.

A surgical class can be composed of one or more DRGs. For example, in MDC 5, the surgical class "heart transplant" consists of a single DRG and the class "coronary bypass" consists of two DRGs. Consequently, in many cases, the surgical hierarchy has an impact on more than one DRG. The methodology for determining the most resource-intensive surgical class, therefore, involves weighting each DRG for frequency to determine the average resources for each surgical class. For example, assume surgical class A includes DRGs 1 and 2 and surgical class B includes DRGs 3, 4, and 5, and that the average charge of DRG 1 is higher than that of DRG 3, but the average charges of DRGs 4 and 5 are higher than the average charge of DRG 2. To determine whether surgical class A should be higher or lower than surgical class B in the surgical hierarchy, we would weight the average charge of each DRG by frequency (that is, by the number of cases in the DRG) to determine average resource consumption for the surgical class. The surgical classes would then be ordered from the class with the highest average resource utilization to that with the lowest, with the exception of "other OR procedures" as discussed below.

This methodology may occasionally result in a case involving multiple procedures being assigned to the lower-weighted DRG (in the highest, most resource-intensive surgical class) of the available alternatives. However, given that the logic underlying the surgical hierarchy provides that the Grouper searches for the more resource-intensive procedure, which may sometimes occur in cases involving multiple procedures, this result is unavoidable.

We would like to point out, notwithstanding the foregoing discussion, that there are a few instances where a surgical class with a smaller average relative weight is

ordered above a surgical class with a higher average relative weight. For example, the "other OR procedures" surgical class is uniformly ordered last in the surgical hierarchy of each MDC in which it occurs regardless of the fact that the weighting factor for the DRG or DRGs in that surgical class may be higher than that for other surgical classes in the MDC. The "other OR procedures" class is a group of procedures that are least likely to be related to the diagnoses in the MDC but are occasionally performed on patients with these diagnoses. Therefore, these procedures should only be considered if no other procedure more closely related to the diagnoses in the MDC has been performed.

A second example occurs when the difference between the average weights for two surgical classes is very small. We have found that small differences generally do not warrant reordering of the hierarchy since, by virtue of the hierarchy change, the weighting factors are likely to shift such that the higher-ordered surgical class has a lower average weight than the class ordered below it.

Based on the preliminary recalibration of the DRGs, we are proposing to modify the surgical hierarchy as set forth below. As we stated in the September 1, 1989 final rule (54 FR 36457), we are unable to test the effects of the proposed revisions to the surgical hierarchy and to reflect these changes in the proposed relative weights due to the unavailability of revised Grouper software at the time this proposed rule is prepared. Rather, we simulate most major classification changes to approximate the placement of cases under the proposed reclassification and then determine the average charge for each DRG. These average charges then serve as our best estimate of relative resource use for each surgical class. We test the proposed surgical hierarchy changes after the revised Grouper is received and reflect the final changes in the DRG relative weights in the final rule. Further, as discussed below in section ILC of this preamble, we anticipate that the final recalibrated weights will be somewhat different from those proposed since they will be based on more complete data. Consequently, further revision of the hierarchy, using the above principles, may be necessary in the final rule.

At this time, we would revise the surgical hierarchy for MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue) and the pre-MDC DRGs.

a. In MDC 8, we would reorder Biopsies (DRG 216) above Hip and

Femur Procedures Except Major Joint (DRGs 210, 211, and 212) and Amputations (DRG 213). In addition, we would add the new Major Joint and Limb Reattachment Procedures of Upper Extremity (DRG 491) below Amputations. We would also move Knee Procedures (DRGs 221 and 222) above Lower Extremity and Humerus Procedures Except Hip, Foot and Femur (DRGs 218, 219, and 220).

b. In the pre-MDC DRGs, we would reorder Bone Marrow Transplant (DRG 481) above Tracheostomy Without Mouth, Larynx or Pharynx Disorder (DRG 483).

8. Refinement of Complications and Comorbidities List

There is a standard list of diagnoses that are considered complications or comorbidities (CCs). This list was developed by physician panels to include those diagnoses that, when present as a secondary condition, would be considered a substantial complication or comorbidity. In preparing the original CC list, a substantial CC was defined as a condition that, because of its presence with a specific principal diagnosis, would increase the length of stay by at least one day for at least 75 percent of the patients.

Based upon clinical review by our medical consultants and analysis of the charge data in the FY 1990 MEDPAR file, we are proposing to revise the list of diagnoses that are considered to be CCs as follows:

- We would add the following diagnoses to the CC list:

- 293.81 Organic delusional syndrome
- 292.82 Organic hallucinosis syndrome
- 293.83 Organic affective syndrome
- 453.8 Venous embolism and thrombosis of other specified veins
- 453.9 Venous embolism and thrombosis of unspecified site
- 696.0 Psoriatic arthropathy
- 733.81 Malunion of fracture
- 733.82 Nonunion of fracture

Each of these diagnosis codes will be considered a CC for any principal diagnosis not shown in Table 6g. Additions to the CC Exclusions List (see discussion of CC Exclusions list, in section IV of the addendum below).

- We would delete the following diagnoses from the CC list:

- 318.2 Profound mental retardation
- 429.0 Myocarditis, unspecified
- 447.0 Arteriovenous fistula, acquired
- 448.0 Hereditary hemorrhagic telangiectasia
- 457.2 Lymphangitis
- 500 Coal worker's pneumoconiosis
- 501 Asbestosis

- 502 Pneumoconiosis due to other silica or silicates
- 503 Pneumoconiosis due to other inorganic dust
- 504 Pneumonopathy due to inhalation of other dust
- 505 Pneumoconiosis, unspecified
- 571.1 Acute alcoholic hepatitis
- 607.1 Balanoposthitis
- 607.2 Other inflammatory disorders of penis
- 607.3 Priapism
- 619.0 Urinary-genital tract fistula, female
- 619.1 Digestive-genital tract fistula, female
- 619.2 Genital tract-skin fistula, female
- 619.8 Other specified fistulas involving female genital tract
- 619.9 Unspecified fistula involving female genital tract
- 683 Acute lymphadenitis
- 708.0 Allergic urticaria
- 788.0 Renal colic
- 790.8 Viremia, unspecified

Each of these diagnoses would no longer be considered a CC for any principal diagnosis.

In the September 1, 1987 final notice concerning changes to the DRG classification system (52 FR 33143), we modified the Grouper logic so that certain diagnoses included on the standard list of CCs would not be considered a valid CC in combination with a particular principal diagnosis. Thus, we created the CC Exclusions List. We made these changes to preclude coding of closely related conditions, to preclude duplicative coding or inconsistent coding from being treated as CCs, and to ensure that cases are appropriately classified between the complicated and uncomplicated DRGs in a pair.

In the May 19, 1987 proposed notice concerning changes to the DRG classification system (52 FR 18877), we explained that the excluded secondary diagnoses were established using the following five principles:

- Chronic and acute manifestations of the same condition should not be considered CCs for one another (as subsequently corrected in the September 1, 1987 final notice (52 FR 33154)).

- Specific and nonspecific (that is, not otherwise specified (NOS)) diagnosis codes for a condition should not be considered CCs for one another.

- Conditions that may not co-exist, such as partial/total, unilateral/bilateral, obstructed/unobstructed, and benign/malignant, should not be considered CCs for one another.

- The same condition in anatomically proximal sites should not be considered CCs for one another.

• Closely related conditions should not be considered CCs for one another.

The creation of the CC Exclusions List was a major project involving hundreds of codes. The FY 1988 revisions were intended to be only a first step toward refinement of the CC list in that the criteria used for eliminating certain diagnoses from consideration as CCs were intended to identify only the most obvious diagnoses that should not be considered complications or comorbidities of another diagnosis. For that reason and in light of comments and questions on the CC list, we have continued to review the remaining CCs to identify additional exclusions and to remove diagnoses from the master list that have been shown not to meet the definition of a CC, stated above, as appropriate. (See the September 30, 1988 final rule for the revision made for the discharges occurring in FY 1989 (53 FR 38485), the September 1, 1989 final rule for the revision made for discharges occurring in FY 1990 (54 FR 36552), and the September 4, 1990 final rule for the revision made for discharges occurring in FY 1991 (55 FR 36126).)

We are proposing a limited revision of the CC Exclusions List, which includes corrections of errors in the existing list, addition of a number of excluded CCs, and deletion of a number of excluded CCs. These proposed changes are being made in accordance with the principles established when we created the CC Exclusions List in 1987.

Tables 6g and 6h in section IV of the addendum to this proposed rule contain the proposed revisions to the CC Exclusions List that would be effective for discharges occurring on or after October 1, 1991. Each table shows the principal diagnoses with proposed changes to the excluded CCs. Each of these principal diagnoses is shown with an asterisk and the additions or deletions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

CCs that are added to the list are in Table 6g—Additions to the CC Exclusions List. Currently, the indented diagnoses are recognized by the Grouper as valid CCs for the asterisked principal diagnosis but will be excluded and thus ignored by the Grouper beginning with discharges on or after October 1, 1991.

CCs that are deleted from the list are in Table 6h—Deletions from the CC Exclusions List. Currently, the indented diagnoses are excluded and are not recognized by the Grouper as valid CCs for the asterisked principal diagnosis but, except for those diagnoses that are being removed from the CC list

altogether, will be recognized as valid CCs beginning with discharges on or after October 1, 1991.

Copies of the original CC Exclusions List applicable to FY 1988 can be obtained from the National Technical Information Service (NTIS) of the Department of Commerce. It is available in hard copy for \$67.00 and on microfiche for \$16.50, plus \$3.00 for shipping and handling. A request for the FY 1988 CC Exclusions List (which should include the identification accession number, ((PB) 88-133970), should be made to the following address: National Technical Information Service, United States Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 or by calling (703) 487-4650.

Users should be aware of the fact that all (FYs 1989, 1990, and 1991) revisions to the CC Exclusions List and those in Tables 6g and 6h of this document must be incorporated into the list purchased from NTIS in order to obtain the CC Exclusions List applicable for discharges occurring on or after October 1, 1991.

Alternatively, the complete documentation of the Grouper logic, including the current CC Exclusions List, is available from 3M/HIS, which, under contract with HCFA, is responsible for updating and maintaining the Grouper program. The current DRG Definitions Manual, Seventh Revision is available for \$195.00, which includes \$15.00 for shipping and handling. The Eighth Revision of this manual, which will include the changes proposed in this document as finalized in response to public comment, will be available in September 1991 for \$195.00. These manuals may be obtained by writing 3M/HIS at: 100 Barnes Road, Wallingford, Connecticut 06492 or by calling (203) 949-0303.

Please specify the revisions requested.

9. Review of Procedure Codes in DRGs 468 and 477

Each year, we review cases assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis) in order to determine whether, in conjunction with certain principal diagnoses, there were certain procedures performed that are not currently included in the surgical hierarchy for the MDC in which the diagnosis falls. In FY 1989, this review resulted in the addition of DRG 476 (Prostatic OR Procedure Unrelated to Principal Diagnosis) and DRG 477 (Non-Extensive OR Procedure Unrelated to Principal Diagnosis). For a detailed discussion of these changes, see the September 30, 1988 final rule (53 FR 38487).

Since DRG 468 is reserved for those cases in which none of the OR procedures is related to the principal diagnosis, it is intended to capture atypical cases, that is, those cases not occurring with sufficient frequency to represent a distinct, recognizable clinical group. DRGs 476 and 477 are assigned to specific subsets of these cases. DRG 476 is currently assigned to those discharges in which one of the following prostatic procedures is performed and it is unrelated to the principal diagnosis:

- 60.0—Incision of prostate
- 60.12—Open biopsy of prostate
- 60.15—Biopsy of periprostatic tissue
- 60.18—Other diagnostic procedures on prostatic and periprostatic tissue
- 60.2—Transurethral prostatectomy
- 60.61—Local excision of lesion of prostate
- 60.69—Prostatectomy NEC
- 60.93—Repair of prostate
- 60.94—Control of (postoperative) hemorrhage of prostate
- 60.99—Other operations on prostate

DRG 477 is assigned to those discharges in which the only procedures performed are nonextensive procedures that are unrelated to the principal diagnosis. The original list of the ICD-9-CM procedure codes for the procedures we consider nonextensive procedures if performed with an unrelated principal diagnosis was published in Table 6c in section IV of the addendum to the September 30, 1988 final rule (53 FR 38591). As a part of the September 4, 1990 final rule, we moved a large number of procedures from DRG 468 to 477. We listed the procedure codes in Table 6g in section IV of the addendum to that final rule (55 FR 36135).

We annually conduct a review of procedures producing DRG 468 or 477 assignments on the basis of volume of cases in these DRGs with each procedure. Our medical consultants then identify those procedures occurring in conjunction with certain principal diagnoses with sufficient frequency to justify adding them to one of the surgical DRGs for the MDC in which the diagnosis falls. This year's review did not identify any changes that are necessary; therefore, we are not proposing to move any procedures from DRGs 468 or 477 to one of the surgical DRGs.

However, because of an ICD-9-CM coding revision, we are proposing to add a procedure to DRG 476. Effective October 1, 1991, procedure code 60.95 (Transurethral balloon dilation of the prostatic urethra) will be added to the ICD-9-CM. Since this is an OR

procedure that currently group to DRG 476 when they are performed on patients with an unrelated principal diagnosis, we are proposing to add procedure code 60.95 to the list of DRG 476 prostatic procedures.

We also reviewed the list of OR procedures that produce DRG 468 assignments to ascertain if any of those procedures should be moved to the list of nonextensive procedures that produce DRG 477 assignments. We analyzed the charge and length of stay data for cases assigned to DRG 468 to identify those procedures that are associated with discharges that are more similar to the discharges that currently group to DRG 477 than to the discharges that group to DRG 468. Generally, we consider moving only those procedures for which we have an adequate number of discharges to analyze the data.

Based on our analysis, we are proposing to add the following two procedures to the list of nonextensive procedures that group to DRG 477:

53.41—Repair of umbilical hernia with prosthesis.

53.49—Other umbilical herniorrhaphy.

These cases would group to DRG 477 instead of DRG 468 beginning with discharges on or after October 1, 1991.

10. Changes to the ICD-9-CM Coding System

As discussed above in section II.B.1 of this preamble, the ICD-9-CM is a coding system for the reporting of diagnoses and procedures performed on a patient. In September 1985, the ICD-9-CM Coordination and Maintenance Committee was formed. This is a Federal interdepartmental committee charged with the mission of maintaining and updating the ICD-9-CM. This includes approving new coding changes, developing errata, addenda, and other modifications to the ICD-9-CM to reflect newly developed procedures and technologies and newly identified diseases. The Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The Committee is co-chaired by the National Center for Health Statistics (NCHS) and HCFA. The NCHS has lead responsibility for the ICD-9-CM diagnosis codes included in Volume 1—Diseases: Tabular List and Volume 2—Diseases: Alphabetic Index, while HCFA has lead responsibility for the ICD-9-CM procedure codes included in

Volume 3—Procedures: Tabular List and Alphabetic Index.

The Committee encourages participation in the above process by major health-related organizations. In this regard, the Committee holds public meetings for discussion of educational issues and proposed coding changes. These meetings provide an opportunity for input into coding matters from representatives of recognized organizations in the coding fields, such as the American Medical Record Association (AMRA), the American Hospital Association (AHA), and various physician specialty groups as well as physicians, medical record administrators, and other members of the public. After considering the opinions expressed at the public meetings, the Committee formulates recommendations, which then must be approved by the agencies.

The Committee presented proposals for coding changes at public meetings held on April 23, July 26, and December 7, 1990 and finalized the coding changes after consideration of comments received at the meetings and in writing in the 30 days following the December 7, 1990 meeting. The initial meeting for consideration of coding issues for resolution in FY 1992 was held on May 2, 1991. Copies of the minutes of these meetings may be obtained by writing to the co-chairpersons representing NCHS and HCFA. We encourage commenters to address suggestions on coding issues involving diagnosis codes to: Ms. Sue Meads, R.R.A. Co-Chairperson, ICD-9-CM Coordination and Maintenance Committee, NCHS, Rm. 9-58, 6525 Belcrest Road, Hyattsville, Maryland 20782. Questions and comments concerning the procedure codes should be addressed to: Ms. Patricia E. Brooks, Co-Chairperson, ICD-9-CM Coordination and Maintenance Committee, HCFA, Office of Coverage Policy, Rm. 401 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

The ICD-9-CM code changes that have been approved will become effective October 1, 1991. The new ICD-9-CM codes are listed, along with their proposed DRG classifications, in Tables 6a and 6b (New Diagnosis Codes and New Procedure Codes, respectively) in section IV of the addendum to this proposed rule. As we stated above, the code numbers and their titles were presented for public comment in the ICD-9-CM Coordination and Maintenance Committee meetings. Both oral and written comments were considered before the codes were approved. Therefore, we are soliciting

comments only on the proposed DRG classification.

Further, the Committee has approved the expansion of certain ICD-9-CM codes to require an additional digit for valid code assignment. Diagnosis codes that have been replaced by expanded codes or have been deleted are in Table 6c (Invalid Diagnosis Codes). Procedure codes that have been replaced by expanded codes or have been deleted are in Table 6d (Invalid Procedure Codes). These diagnosis and procedure codes will not be recognized by the Grouper beginning with discharges occurring on or after October 1, 1991. The corresponding new expanded codes are included in Tables 6a and 6b. Revisions to diagnosis and procedure code titles are in Tables 6e (Revised Diagnosis Code Titles) and 6f (Revised Procedure Code Titles), which also include the proposed DRG assignments for these revised codes.

11. Expansion of Diagnosis and Procedure Reporting Fields on the UB-82 Form

In the May 9, 1990 proposed rule (55 FR 19459), in response to a ProPAC recommendation, we announced our intention to expand to 10 the number of fields available for reporting diagnosis and procedure codes on the UB-82 billing form (the billing form used for Medicare discharges). We agreed with ProPAC that this expansion was necessary to ensure complete medical information reporting and expressed our intention to implement a revised form that would allow the reporting of 10 codes in each field for discharges occurring on or after October 1, 1990. The current UB-82 form limits these fields to five diagnosis and three procedure codes.

This increase in the number of reporting fields was deemed necessary to provide space to report all relevant medical conditions affecting the patient's hospital stay and, also, to allow more fields for reporting procedures representing services and treatment received. Because principal, diagnosis, secondary diagnosis, and certain procedures performed determine assignment to DRGs and, thus, payment, these critical elements are reported in the limited number of fields available to the exclusion of other procedures and diagnoses that are also of importance. In analyzing MEDPAR data for DRG refinement, we found that information relating to specific diseases or treatments often was not available. Since the codes did not affect DRG assignment and, thus, payment, they were not included in the limited space

available on the bill. Increasing the number of fields for reporting would enhance our data analysis capabilities in modifying and refining DRGs.

We received several comments concerning our announcement of the expansion of the UB-82 form. Although the majority of the commenters were supportive of the revision, believing that it would improve the overall accuracy of the data reported, they were virtually unanimous in requesting delayed implementation of the expansion. Based on their previous experience with this type of change, the commenters believed that hospitals needed at least 6 months after the details of the bill changes were announced to change their computer systems to collect and process more codes. They stated that the expanded reporting of codes should not be effective until the UB-82 form had been revised to accept the additional data. Also, they expressed the belief that we should analyze the need for the full expansion to 10 diagnoses and procedure codes before implementation.

Based upon these comments and our own analysis of the situation, we stated in the September 4, 1990 final rule (55 FR 36068) that we would delay implementation of an expansion of the UB-82 billing form to accept additional diagnosis and procedure codes until October 1, 1991. We also agreed to do more analysis on the number of codes necessary to optimize DRG refinement. Therefore, since publication of the September 4 final rule, we have conducted further analysis of the number of codes that are necessary to improve our ability to make accurate and valid changes in the DRG classification system. We have evaluated the reporting use of the fields currently in existence as well as reviewing other data systems to identify the optimal number of fields. Analysis of the FY 1990 MEDPAR file, based on 9.2 million Medicare claims submitted by hospitals, indicated that full use of all five fields for reporting diagnoses occurred 54 percent of the time. Procedure codes were reported using all three available fields only 25 percent of the time. However, we note that 38 percent of the records reported no procedure codes.

In addition, we consulted with an analyzed data from California. The California Statewide Discharge Data Set contains 25 diagnosis fields and 25 procedure fields. The California Patient Discharge Data Section recently completed a study of approximately 3.5 million discharge records that aggregated data identifying the number of records reporting codes in each of the

available fields. The results of this study confirmed what we had found in our internal analysis: the percentage of records reporting diagnoses and procedures decreases significantly after a certain number of fields. Using the California data, we found that while approximately 50 percent of the records used at least three diagnosis fields, only 9 percent contained at least seven codes. For procedure codes, the pattern was similar. Out of 25 available fields, 40 percent reported no procedures while only 13 percent used at least 4 procedure code fields for reporting.

Based on these results and on our analysis of reporting on MEDPAR records, we will expand the UB-82 billing form to include 9 diagnosis fields and 6 procedure code fields effective for discharges occurring on or after October 1, 1991. We estimate that this will encompass approximately 95 percent of the diagnosis and procedure codes reported. There is no evidence to support the efficacy of expanding beyond this number as the incremental cost of expansion and of reporting each additional code would exceed the benefit to be derived. We believe that this expansion will provide additional data on diagnosis and procedures that will greatly enhance our analytic capabilities. The need to provide, for example, more than three procedure codes to ensure sequencing accuracy and logic will be adequately met by the expanded number of procedure code fields. Given the increasing emphasis on coexisting conditions as a measure for severity of illness, we believe the additional diagnosis fields will improve reporting and analytic accuracy.

We will continue to work with the National Uniform Bill Committee on revising the UB-82 to accommodate these expanded fields. With the expanded fields, we believe that there will be adequate room for hospitals to completely code virtually all inpatient hospital discharges. We expect hospitals to fully code every case using the Uniform Hospital Discharge Data Set (UHDDS) definitions and instructions as well as the coding guidelines set forth in the Coding Clinic for ICD-9-CM (Coding Clinic), published quarterly by the AHA for use by hospitals. Coding Clinic provides specific diagnosis and procedure information and guidelines that are helpful for determining proper coding. As a part of their claims review, the Peer Review Organizations (PROs) will be using these same definitions and coding guidelines to assess hospital coding practice. HCFA will send this coding expansion to the Office of Management and Budget (OMB) for

review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511). These requirements will not be effective until OMB approval is received.

12. Other Issues: Intractable Epilepsy

Effective October 1, 1989, the diagnosis codes identifying epilepsy were modified by the addition of a fifth digit, which distinguished intractable from nonintractable epilepsy. (See Table 6A—New Diagnosis Codes, in section IV of the addendum to the September 1, 1989 final rule (54 FR 36547)). This modification added a fifth digit of "0" to specify "without mention of intractable epilepsy" and a fifth digit of "1" to identify intractable epilepsy cases to diagnosis codes 345.0 through 345.9. Patients with a principal diagnosis of 345.00 through 345.91 are assigned to MDC 1 (Diseases and Disorders of the Nervous System). These cases group to DRG 1 (Craniotomy Age > 17 Except Trauma) or DRG 3 (Craniotomy Age 0-17) when surgery is performed and to DRG 24, 25, or 26 (Seizure and Headache) when there is no operating room procedure performed.

By differentiating between intractable epilepsy and routine epilepsy, the new diagnosis codes recognize the varying severity of epilepsy. Further, we added two new procedure codes effective October 1, 1989 to identify procedures typically performed in the diagnosis and treatment of epilepsy patients. (See Table 6B—New Procedure Codes, in section IV of the addendum to the September 1, 1989 final rule (54 FR 36549)). These new codes, 89.10 (Intracarotid amobarbital test) and 89.19 (Video and radio-telemetered electroencephalographic monitoring) with the modified diagnosis codes provide an opportunity to identify the intractable epilepsy patients, both with and without the specified procedures, and to analyze resource use during hospital stays.

In the September 1, 1989 final rule, at the time the new codes were announced, we stated that these codes would allow us to collect and evaluate data concerning resource requirements for patients with intractable epilepsy compared to patients with routine epilepsy and to determine whether any additional classification changes should be proposed once the FY 1990 data were available (54 FR 36461). Accordingly, we have analyzed the FY 1990 MEDPAR data, comparing cases with intractable and nonintractable epilepsy with and without procedures 89.10 and 89.19. As a result of this analysis, we found that, while cases with intractable epilepsy

assigned to DRGs 24, 25, and 26 incurred higher charges than those cases without intractable epilepsy, the differences are not significant enough to warrant any DRG classification changes at this time. The average standardized charge for the FY 1990 nonintractable epilepsy cases was \$5,810 while the intractable cases had an average standardized charge of \$6,362.

As part of our analysis, we also examined the charge data from those hospitals that specialize in the treatment of epilepsy. Because these hospitals treat many of the most complicated cases, we would expect that the charges at these hospitals would be higher than the average. Although the number of cases treated at each center is small (between 0 and 55 cases in the FY 1990 MEDPAR), there was not consistent pattern concerning charges for either intractable or nonintractable epilepsy cases. Out of 13 specialty hospitals, the average charge for intractable cases was higher than the national average in only 5 hospitals, while for nonintractable cases, the average charge was higher at 8 hospitals. We will continue to monitor the performance of intractable epilepsy compared to nonintractable epilepsy to determine if the differential in charges between these cases increases.

We note that there were too few cases reported using either of the procedure codes to make a definitive statement in regard to the impact of these procedures on resource intensity. As with the specialty centers, the data were inconsistent. Although the cases with the procedure code 89.19 had higher charges for intractable cases, this finding did not hold true for intractable cases with procedure code 89.10, nor was it true for either of the codes for nonintractable cases. We will also follow-up on these cases in ensuing years as more current data become available.

C. Recalibration of DRG Weights

One of the basic issues in recalibration is the choice of a data base that allows us to construct relative DRG weights that most accurately reflect current relative resource use. Since FY 1986, the DRG weights have been based on charge data. The latest recalibration, which was published as a part of the FY 1991 prospective payment final rule, used hospital charge information from the FY 1989 MEDPAR file. For a discussion of the options we considered and the reasons we chose to use charge data beginning in FY 1986, we refer the reader to the rules published on June 10, 1985 (50 FR 24372) and September 3, 1985 (50 FR 35652).

We are proposing to use the same basic methodology for the FY 1992 recalibration as we did for FY 1991. (See the September 4, 1990 final rule (55 FR 36033).) That is, we would recalibrate the weights based on charge data for Medicare discharges. However, we would use the most current charge information available, the FY 1990 MEDPAR file, rather than the FY 1989 MEDPAR file. The MEDPAR file is based on fully-coded diagnostic and surgical procedure data for all Medicare inpatient hospital bills.

The proposed recalibrated DRG relative weights are constructed from FY 1990 MEDPAR data, received by HCFA through December 1990, from all hospitals subject to the prospective payment system and short-term acute care hospitals in waiver States. The FY 1990 MEDPAR file includes data for approximately 9.8 million Medicare discharges.

The methodology used to calculate the proposed DRG weights from the FY 1990 MEDPAR file is as follows:

- All the claims were regrouped using the revised DRG classifications discussed above in section II.B of this preamble.
- Charges were standardized to remove the effects of differences in area wage levels, indirect medical education costs, disproportionate share payments, and, for hospitals in Alaska and Hawaii, the applicable cost-of-living adjustment.
- The average standardized charge per DRG was calculated by summing the standardized charges for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.
- We then eliminated statistical outliers using the same criterion as was used in computing the current weights. That is, all cases outside of 3.0 standard deviations from the mean of the log distribution of charges per case for each DRG were eliminated.
- The average charge for each DRG was then recomputed excluding the statistical outliers and divided by the national average standardized charge per case to determine the weighting factor.
- We established the weighting factor for heart transplants (DRG 103) in a manner consistent with the methodology for all other DRGs except that the heart transplant cases that were used to establish the weight were limited to those Medicare-approved heart transplant centers that have cases in the FY 1990 MEDPAR file. Similarly, we limited the liver transplant cases that were used to establish the weight for DRG 480 (Liver Transplant) to those

hospitals that are established liver transplant centers.

- Acquisition costs for kidney, heart, and liver transplants continue to be paid on a reasonable cost basis. Unlike other excluded costs, the acquisition costs are concentrated in specific DRGs (DRG 302 (Kidney Transplant); DRG 103 (Heart Transplant); and DRG 480 (Liver Transplant)). Because these costs are paid separately from the prospective payment rate, it is necessary to make an adjustment to prevent the relative weights for these DRGs from including the effect of the acquisition costs. Therefore, we subtracted the acquisition charges from the total charges on each transplant bill that showed acquisition charges prior to computing the average charge for the DRG and prior to eliminating statistical outliers.

When we recalibrated the DRG weights for previous years, we set a threshold of 10 cases as the minimum number of cases required to compute a reasonable weight. In the FY 1989 MEDPAR data used to establish the FY 1991 weights, there were 35 DRGs that contained fewer than 10 cases. We propose to use that same case threshold in recalibrating the DRG weights for FY 1992. In the FY 1991 recalibration, we computed the weight for the 35 low-volume DRGs by adjusting the original weights of these DRGs by the percent change in the weight of the average case in the remaining DRGs. We propose to use this same methodology for the FY 1992 recalibration. Using the FY 1990 MEDPAR data set, there are 37 DRGs that contain fewer than 10 cases.

The weights developed according to the methodology described above, using the proposed DRG classification changes, result in an average case weight that is different from the average case weight before recalibration. Therefore, the new weights are normalized by an adjustment factor, so that the average case weight after recalibration is equal to the average case weight prior to recalibration. This adjustment is intended to ensure that recalibration by itself neither increases nor decreases total payments under the prospective payment system.

In developing the FY 1990 weights, we made an across-the-board 1.22 percent reduction to the weights after normalization to take into account increases in the average case weight attributable to reclassification and recalibration changes between FY 1986 and FY 1988 (54 FR 36469). Section 6003(b) of Public Law 101-239 enacted section 1886(d)(4)(C)(ii) of the Act to ratify the 1.22 percent reduction to the DRG weights but required in section

1886(d)(4)(C)(iii) of the Act that reclassification and recalibration changes in subsequent years (beginning with FY 1991) be made in a manner that assures that the aggregate payments are not greater or less than the aggregate payments that would have been made without the changes. Section 1886(d)(4)(C)(iv) of the Act requires that the Secretary include recommendations regarding any adjustments to the weights in his annual report to the Congress (required under section 1886(e)(3)(B) of the Act) on his initial estimate of his recommendation for the prospective payment update factor for the coming year.

We also interpret section 1886(d)(4)(C)(iii) of the Act to require that we ensure the FY 1992 reclassification and recalibration changes do not affect aggregate payments. Although normalization is intended to achieve this effect, equating the average case weight after recalibration to the average case weight before recalibration does not necessarily achieve budget neutrality with respect to aggregate payments to hospitals. Therefore, as discussed in section II.A.4.b of the Addendum to this proposed rule, we are proposing to make a budget neutrality adjustment to assure the requirement of section 1886(d)(4)(C)(iii) of the Act is met.

As discussed above in section II.B.2 of this preamble, one of the reclassification changes that we made in FY 1990 involved the implementation of the new 5-digit codes for cases with a diagnosis of acute myocardial infarction (AMI). Consistent with our policy at the time, which predated the enactment of Public Law 101-239, we assigned the revised codes for nonacute AMIs to DRGs 132 and 133, which we believed were the appropriate DRGs for payment purposes. Because we were unable to identify which cases in the FY 1988 MEDPAR file would no longer be assigned to DRGs 121 and 122, we left all the AMI cases in those DRGs in recalibrating their weights. In addition, because we could not identify which cases would no longer be assigned to DRGs 121 and 122, we could not determine an appropriate adjustment to the DRG weights for DRGs 121 and 122 and DRGs 132 and 133 to reflect the new DRG assignment. To continue to assign the nonacute cases to DRGs 121 and 122 for payment purposes until FY 1992 (when we would be able to identify the nonacute cases in our data for recalibration purposes) would have been inappropriate because it would have resulted in excessive payments for the nonacute cases without improving

the payment accuracy for the acute cases in DRGs 121 and 122.

ProPAC, as a part of its March 1, 1991 report, has recommended that a one-time adjustment be made during the FY 1992 DRG recalibration process to account for the reassignment of the nonacute AMI cases in FY 1990 (Recommendation 5). ProPAC believes that the reassignment of the cases before the change could be accounted for in the recalibration policy resulted in inappropriately low weights for acute AMIs assigned to DRGs 121 and 122 and nonacute AMIs assigned to DRGs 132 and 133. ProPAC also believes that this adjustment is necessary to prevent the underpayment for these cases from being carried forward into the future.

The type of adjustment ProPAC is recommending is similar to the -1.22 percent adjustment that we made in FY 1990 to account for increases in the case-mix index attributable to DRG reclassification changes. We believe that in amending section 1886(d)(4)(C)(ii) of the Act, Congress intended that no adjustment be made in the DRG weights to make allowances for the impact of previous reclassification changes. As we did for FY 1991, we have taken into account in our update recommendation for FY 1992 any effect previous DRG changes had on aggregate payments (See Appendix C). We note that just as the AMI change may have inadvertently reduced aggregate payments, other changes may have increased payments. We believe that any adjustment should be for the net effect of all reclassification changes.

We also note that the proposed FY 1992 relative weights for DRGs 121 and 122, which are based on only acute AMI cases, are only slightly higher than the FY 1991 weights.

Weight	DRG 121	DRG 122
Proposed FY 1992.....	1.6268	1.1714
FY 1991.....	1.5772	1.1152

We believe this indicates that, even though the case mix in these DRGs changed because of our coding revisions, treatment patterns or other practices have been lowering the resource consumption of these cases relative to all other cases. Therefore, we do not believe that these cases suffered the dramatic losses that ProPAC projected based on FY 1988 MEDPAR data. Although our analysis does indicate that the nonacute cases assigned to DRGs 132 and 133 may have been underpaid, as discussed above in section II.B.2 of this preamble, we believe this may be largely attributable

to acute AMI cases that were not coded correctly.

III. Proposed Changes to the Hosoi Wage Index

A. Background

Section 1886(d)(2)(C)(ii) of the Act required, as part of the process of developing separate urban and rural standardized amounts for FY 1984, that we standardize the average cost per case of each hospital for differences in area wage levels. Sections 1886(d)(2)(H) and 1886(d)(3)(E) of the Act have required that the standardized urban and rural amounts be adjusted for area variations in hospital wage levels as part of the methodology for determining prospective payments to hospitals. To fulfill both of these requirements, we constructed an index that reflects average hospital wages in each urban and rural area as a percentage of the national average hospital wage.

In determining prospective payments to hospitals in FY 1990, the wage index was based on wage data from cost reporting periods beginning in FY 1984. Section 6003(h)(6) of Public Law 101-239 amended section 1886(d)(3)(E) of the Act to require that wage indexes that are applied to the labor-related portion of the national average standardized amounts of the prospective payment system be updated not later than October 1, 1990, and updated annually beginning October 1, 1993. The September 4, 1990 final rule (55 FR 35990) set forth a revised hospital wage index that was based on a HCFA survey of hospital wage and salary data for all hospitals subject to the prospective payment system with cost reporting periods ending in calendar year 1988. Home office costs and fringe benefits associated with hospital and home office salaries were included in the updated wage index. Nonhospital costs were excluded from the wage index.

In the September 4, 1990 final rule (55 FR 36041), we implemented a 1-year phase-in of the undated wage index for FY 1991 to lessen the impact of the most significant changes in wage index values. We limited the percentage change in the wage index value to 8 percent plus 50 percent of the difference between the 8 percent threshold and the new wage index value.

Section 115(a) of Public Law 101-403 extended the use of the area wage index applicable to prospective payment system hospitals that was in effect on September 30, 1990 (that is, the wage index in use in FY 1990, which was based on 1984 hospital wage data) to discharges occurring on or after October

1, 1990 and before October 21, 1990. Section 4007(a)(3) of Public Law 101-508 further extended use of the FY 1990 wage index for prospective payment hospitals for discharges occurring on or after October 21, 1990 and before January 1, 1991. These changes were announced in the January 7, 1991 notice, *Legislative Changes Concerning Payment to Hospitals for Federal Fiscal Year 1991* (56 FR 562).

Section 4002(d)(1)(A) of Public Law 101-508 specified that a wage index based on 1988 hospital wage data would be effective for discharges occurring on or after January 1, 1991 and before October 1, 1993. Also, section 4002(d)(1)(B) of Public Law 101-508 specified that the Secretary shall apply the wage index without regard to a previous survey of wages and wage-related costs. Therefore, in the January 7, 1991 final rule with comment period, *Mid-Year FY 1991 Changes to the Inpatient Hospital Prospective Payment System* (56 FR 568), we revised the wage index to eliminate the 1-year transition period set forth in the September 4, 1990 final rule.

B. Updating the Wage Index Data

For discharges occurring in FY 1991, the proposed wage index continues to be based solely on 1988 wage data. In addition, in determining the proposed wage index for discharges occurring on or after October 1, 1991, we incorporated all corrections of errors that have been identified in the survey wage data since the construction of the wage index implemented in the January 7, 1991 final rule.

The wage indexes are shown in tables 4a through 4c in the addendum to this proposed rule.

C. Revisions to the Wage Index Based On Hospital Reclassifications

Under section 1886(d)(8)(B) of the Act, for discharges occurring on or after October 1, 1988, hospitals in certain rural counties adjacent to one or more Metropolitan Statistical Areas (MSAs) are considered to be located in one of the adjacent MSAs if certain standards are met. Under this provision, as a part of the September 30, 1988 prospective payment system final rule, we classified the wage data for those rural areas as if the hospitals in those areas were located in the adjacent MSAs and recomputed the wage index values for the affected MSAs and rural areas.

Because inclusion of the wage data from rural hospitals that are considered to be located in an adjacent MSA under section 1886(d)(8)(B) of the Act resulted in the reduction of the wage index values of several MSAs and rural areas,

Congress enacted section 8403(a) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647). Under that provision, which added a new section 1886(d)(8)(C) to the Act, if the inclusion of wage data from rural hospitals now considered to be located in an urban area resulted in a reduction of the wage index value for the affected MSA, or resulted in a reduction of the wage index value for the rural area from which these data were now excluded, then the wage index values for those affected areas were determined as if section 1886(d)(8)(B) of the Act had not been enacted. In addition, the wage index value for hospitals located in rural counties that were deemed urban was determined on a county-specific basis as if the county were a separate urban area. This provision was implemented as part of the September 1, 1989 prospective payment system final rule (54 FR 36476).

For some hospitals in counties redesignated as urban under the provisions of section 1886(d)(8)(B) of the Act, the application of county-specific wage index values for FY 1990 resulted in lower total prospective payments than what those hospitals had received in FY 1989 because those hospitals were now subject to a lower wage index value. For some redesignated hospitals, such as those that had a county-specific wage index value lower than the Statewide rural wage index, the decrease in payment was significant. In fact, some county-specific wage index values were so low that some rural hospitals redesignated as urban hospitals received lower payments than they would have received if they had not been redesignated.

In order to address the adverse impact on certain redesignated hospitals that resulted from implementation of section 8403(a) of Public Law 100-647, Congress revised the methodology for applying the wage index to hospitals affected by section 1886(d)(8)(B) of the Act. This change was effective for discharges occurring on or after April 1, 1990. As amended by section 6003(h)(3) of Public Law 101-239, section 1886(d)(8)(C) of the Act made the application of the wage index to redesignated hospitals dependent on the hypothetical impact that the wage data from these hospitals would have on the wage index value for the MSA to which they have been redesignated. Therefore, the wage index values were determined by considering the following:

- If including the wage data for the redesignated hospitals reduces the MSA wage index value by one percentage point or less, the MSA wage index value applies to the redesignated hospitals

deemed to be a part of that MSA. The MSA wage index value is determined exclusive of the wage data for the redesignated hospitals.

- If including the wage data for the redesignated hospitals reduces the MSA wage index value by more than one percentage point, the wage index is applied separately to the MSA and to the hospitals deemed to be part of that MSA. In this case, the redesignated hospitals continue to have their wage index determined on a county-specific basis, as if their county were a separate urban area. However, the wage index for such county will not be less than the Statewide rural wage index.

- Rural areas whose wage index values would be reduced by excluding the data for redesignated hospitals continue to have their wage index calculated as if no redesignation had occurred. Those rural areas whose wage index values increased as a result of excluding the wage data for the excluded hospitals continue to have their wage index calculated exclusive of the redesignated hospitals.

Section 4002(h) of Public Law 101-508 amended section 1886(d)(8)(C) of the Act effective for discharges occurring on or after January 1, 1991 by specifying that if including the wage data for the redesignated hospitals reduces the wage index value for the area to which the hospitals are redesignated by more than one percentage point, the hospitals that are redesignated are subject to the wage index value of the area that results from including the wage data of the redesignated hospitals. However, the wage index value for the redesignated hospitals cannot be less than the wage index value for the rural areas of the State in which the hospitals are located.

As discussed above in section I.A.1. of the preamble, section 6003(h)(1) of Public Law 101-239 added section 1886(d)(10) to the Act (which was later amended by section 4002(h) of Public Law 101-508) to provide for the establishment of the Medicare Geographic Classification Review Board (MGCRB). The MGCRB considers applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system. The first hospital reclassifications based on decisions of the MGCRB will take effect October 1, 1991. Section 1886(d)(10)(C) of the Act requires that the MGCRB issue its decisions by no later than 180 days after the first day of the Federal fiscal year (that is, March 30) and also provides for an appeals process that can extend an additional 105 days.

The methodology for determining the wage index values for redesignated hospitals will be applied jointly to the hospitals located in those rural counties that were deemed urban under section 1886(d)(8)(B) of the Act and those hospitals that are redesignated as a result of the MGCRB decisions under section 1886(d)(10) of the Act. We note that, except for those rural areas where reclassifications would reduce the rural wage index value, the wage index value for each area is computed exclusive of the data for hospitals that have been granted reclassification from the area for purposes of their wage index. As a result, there are a few MSAs listed in Table 4a that do not have a wage index value. This is because the hospitals in the original MSA have been reclassified to another area and our records indicate that there are no other hospitals currently classified in those areas.

The proposed revised wage index values effective for discharges occurring on or after October 1, 1991, are shown in tables 4a, 4b, and 4c, of the addendum to this proposed rule. Hospitals that are redesignated should use the wage index values shown in Table 4c. It should be noted that for some areas, more than one wage index value will be shown in table 4c. This occurs when hospitals from more than one state are included in the group of redesignated hospitals, and one state has a higher statewide rural wage index value than the wage index value otherwise applicable to the redesignated hospitals.

Revised Table Names

Table 4a—Wage Index for Urban Areas
Table 4b—Wage Index for Rural Areas
Table 4c—Wage Index for Redesignated Hospitals

The proposed FY 1992 wage index values incorporate all reclassification decisions made by the MGCRB as of March 30, 1991. As of that date, 639 wage index reclassifications were approved by the MGCRB. At the time this proposed wage index was constructed, the MGCRB was continuing to evaluate some additional applications requesting a reclassification. Any additional decisions made by the MGCRB, as well as changes that result from the appeals process will be incorporated into the wage index values to be published in the final rule implementing changes to the prospective payment system for FY 1992. The later decisions may affect not only the wage index value for specific geographic areas but also whether redesignated hospitals receive the wage index of the area to which they are redesignated or a combined wage index that includes the data for both the hospitals already in

the area and the redesignated hospitals. Further, the wage index for the area from which the hospitals are redesignated may be affected.

D. Occupational Mix Adjustment

In its March 1, 1991 report, ProPAC recommended that the Secretary collect hospital wage data by occupation and evaluate the effect of adjusting the HCFA wage index for occupational mix (Recommendation 4). The HCFA wage index reflects variations in the cost of labor; that is, it accounts for variations in the mix of occupations as well as the price of labor. ProPAC believes that the wage index should account for only variations in price, which are beyond the hospital's control and are not otherwise accounted for by other adjustments in the prospective payment system.

Last year, ProPAC studied the effect of adjusting the wage index for occupational mix and found that a wage index adjusted for occupational mix would redistribute funds from urban to rural hospitals. Within urban areas, the occupational mix adjustment would redistribute funds from large to small hospitals. Within rural areas, the occupational mix adjustment would increase the wage index values of all bed size groups. Section 4002(d) of Public Law 101-508 required that ProPAC examine available data to analyze the impact of variation in occupational mix on the computation of the wage data and include in its March 1, 1991 report recommendations regarding the desirability and feasibility of modifying the wage index for occupational mix. To fulfill this requirement, ProPAC studied 1988 California wage and hour data and concluded, as in the earlier study, that the occupational mix adjustment would increase the wage index values in rural areas and decrease the values in large urban areas. Although ProPAC did not formally measure the burden of hospital reporting, it concluded that the California experience indicated the cost would not be prohibitive.

We do not plan to collect occupational mix data at this time for several reasons. First, we believe any decision on obtaining wage data by occupational category for use in future wage indexes must be preceded by a formal evaluation of the value, feasibility, and impact of the collection and use of occupation-specific wage data for indexing hospital wage costs. We are reluctant to place on hospitals the additional reporting burden associated with such a data collection effort when it is still not clear that a substantial improvement in the

distribution of payments to hospitals would result from an occupational mix adjustment. In this regard, we note that the use of occupation-specific wage data should be evaluated in conjunction with other potential wage index changes, such as revised labor market definitions. For example, the effect of changing the current wage index adjustment to include both more distinctly defined labor market areas and an adjustment for occupational mix would be that these two factors would tend to moderate each other. That is, the gains the central city hospitals might realize under revised labor market areas would be somewhat offset by the effect of an occupational mix adjustment, and the gains rural hospitals in the least densely populated areas might realize under an occupational mix adjustment would be somewhat offset by the effect of revised labor market areas.

In addition, we do not know the optimum occupational mix or standard that is needed to provide quality care in an efficient manner. The ProPAC study indicates that the use of occupational weights would result in significant redistribution across hospitals based on urban and rural status, region, and bed size ("Adjusting Wage Differences for Geographic Differences in Occupational Mix," 1990). It is not clear that this redistribution is desirable, particularly in conjunction with the elimination of separate standardized amounts for rural and other urban hospitals. Moreover, we note that the ProPAC studies have not examined the effect of the payment redistributions on hospital Medicare operating margins.

Second, ProPAC believes that the wage index as currently constructed overcompensates certain large urban hospitals due to the fact that the case-mix index already reflects the higher intensity of labor costs these hospitals incur. ProPAC's point is that the cost of labor essentially is double-counted in paying these hospitals through both a higher case-mix index and wage index value relative to other hospitals. As a result, ProPAC believes the system overcompensates for the more complex and higher-weighted DRGs that require the services of more highly trained professionals and that are more often treated in large urban and teaching hospitals. Conversely, hospitals with a lower occupational mix, which are often located in rural areas, are disadvantaged by the payment system, in ProPAC's view. We believe, however, that ProPAC may be overstating the extent of this problem. The standardization process used to recalibrate the DRG relative weights is

intended to remove the effects of area wage differences from the case mix measure, including the effect of variations in occupational mix.

Finally, the more fundamental issue concerns what the wage index is intended to measure: (a) The cost of labor purchased by hospitals, regardless of the mix of employees; or (b) the price paid for labor, holding the mix of employees constant. Currently, the wage index measures the cost of labor. If the wage index were to measure the price of labor, then a set of occupational weights would have to be developed to determine a standard occupational mix. Hospitals would not be compensated for a mix of employees above the standard, while hospitals with a mix of employees below the standard would be overcompensated, relative to their cost of labor.

For all these reasons, we are not proposing at this time to adopt an occupational mix adjustment in the wage index. In this regard, we have an ongoing research project with the Center for Health Economics Research to evaluate several topics related to the wage index, including the change in wages across areas in the 1982, 1984, and 1988 HCFA wage surveys, occupational mix, and alternative labor market areas.

IV. Other Decisions and Proposed Changes to the Regulations

A. Add-On Payment for Blood Clotting Factor (§ 412.2)

Hemophilia, a blood disorder characterized by prolonged coagulation time, is caused by an inherited deficiency of a factor in plasma necessary for blood to clot. Hemophilia encompasses three conditions: Factor VIII deficiency (classical hemophilia); Factor IX deficiency (plasma thromboplastin component or Christmas factor deficiency); and Von Willebrand's disease. The most common factors required by hemophiliacs to increase coagulation are Factor VIII and Factor IX; a small number of hemophiliacs have developed inhibitors to these factors and require special treatment.

Under section 6011 of Public Law 101-239, Congress amended section 1886(a)(4) of the Act to provide that prospective payment hospitals receive an additional payment for the costs of administering blood clotting factor to hemophiliacs who are hospital inpatients. This add-on payment is effective for blood clotting factor furnished on or after June 19, 1990 and before December 19, 1991.

In the April 20, 1990 final rule with comment, we established an add-on

price for clotting factor based on the latest (1990) price listing available from the Drug Topics Red Book, the publication of pharmaceutical average wholesale prices (55 FR 15158). Due to high variation in the costs of the different types of blood clotting factor, we determined that it was more equitable to set an add-on payment amount for each type of blood clotting factor. Therefore, we set three separate add-on amounts, one for each of the three basic types of clotting factor. Also, we discounted the average wholesale prices by 15 percent before calculating the median price. This decision was based on the results of a study conducted by the Department's Office of the Inspector General ("Use of Average Wholesale Prices in Reimbursing Pharmacies Participating in Medicaid and Medicare Prescription Drug Program"; Report No. A-06-89-00037, October 3, 1989), which found the average wholesale price of a drug was discounted by an average 15.5 percent.

The prices we established for the three types of blood clotting factors are as follows:

Factor VIII.....	\$.64 per unit.
Factor IX.....	\$.26 per unit.
Other Hemophilia blood clotting factor.....	\$1.00 per unit.

We stated in the September 4, 1990 final rule that we recognized that the available blood clotting products and their costs were changing rapidly, with new products entering the market and existing products being discontinued (55 FR 36001). At that time, we also stated that we were aware that changes in the clotting factor market might require re-evaluation of the add-on payment amount as part of our FY 1992 changes to the prospective payment system. We have re-evaluated the price per unit for blood clotting factors used by hemophilia inpatients, based on the current (1991) Drug Topics Red Book. Using the same methodology as was used to set the current add-on payment amount, we have calculated updated prices per unit of factor as follows:

Factor VIII.....	\$.72 per unit.
Factor IX.....	\$.26 per unit.
Other Hemophilia blood clotting factor.....	\$1.11 per unit.

We are proposing that these prices be used to pay for blood clotting factor for discharges occurring on or after October

1, 1991 and before December 19, 1991, at which time the payment authority expires.

Since the implementation of the add-on payment, a new blood clotting factor used in the treatment of hemophilia inpatients has been approved by the Food and Drug Administration. This product, although used in the treatment of factor IX patients, differs from other factor IX products both in cost and efficacy. Because it does not contain the same proportion of thrombogenic agents, the risk of thrombosis to the patient is significantly reduced. Extensive research and resources were invested to produce this safer product. Consequently, the price established in the Drug Topics Red Book more closely resembles that of those products we have classified as "Other." If this new factor were to be included in the factor IX category, the resulting average would inflate the payment to other factor IX products and would so lower the payment for the new product that the incentive to use it would be diminished. We have, therefore, proposed to include the new product in the "Other" category both for purposes of calculating the average payment for that class and for purposes of payment for the product.

B. Retroactive Adjustments for Provisionally Excluded Rehabilitation Hospitals and Units (§§ 412.23, 412.30, and 412.130)

Since October 1, 1983, our regulations have allowed new rehabilitation hospitals and units to be excluded from the prospective payment system, and existing excluded rehabilitation units to be expanded by the addition of new beds, without requiring proof that the new facilities actually treated an inpatient population meeting the requirements of § 412.23(b)(2) (the "75 percent" rule). A new rehabilitation hospital or unit can be excluded, or an existing unit can add new beds, if the new or added facilities are otherwise qualified for exclusion and the hospital submits a written certification that it intends to use the facilities to treat an inpatient population that meets the 75 percent rule. The provisions allowing this are located at § 412.23(b)(6) (for new hospitals) and § 412.30 (for addition of new units and expansion of existing units).

We recognize that there may be cases in which a hospital or unit does not actually perform in accordance with its projections and, therefore, is not able to show actual compliance with the 75 percent rule in the first 12-month cost reporting period for which it is excluded from the prospective payment system.

Such a facility would not be able to qualify for a prospective payment system exclusion as a rehabilitation hospital or unit in its next cost reporting period. However, our current regulations do not allow us to make any retroactive changes in the status of a hospital or unit. This means the operator of the facility is able to benefit financially from the first year of exclusion even though the hospital or unit failed to meet the 75 percent rule. Although our current policy is consistent with the prospective nature of the hospital payment system, we are concerned that it may have the unintended effect of rewarding poor planning and may, in fact, encourage operators of marginal facilities to request exclusion and attempt to meet the 75 percent rule, since they could be assured of at least 1 year of exclusion.

Because of this concern, we are proposing that hospitals or units that have been excluded based on certifications of compliance with the 75 percent rule would be allowed to retain payments made to them on the basis of the exclusion only if they actually meet the 75 percent rule in the first year for which they are excluded. If a hospital or unit does not actually meet the 75 percent rule in its first year of exclusion, we would determine the amount of actual payment under the exclusion, compute what we would have paid for the facility's services to Medicare patients under the prospective payment system, and recover any difference in accordance with the rules on the recoupment of overpayments. (We would also, of course, make additional payments to the hospital in the event that the payment amount computed under the prospective payment system is greater.) We are proposing to adopt this policy change because we believe it offers new hospitals or units reasonable access to exclusions from the prospective payment system, while holding them responsible for their performance and ensuring that the Medicare program does not provide inappropriate financial rewards.

We would revise both §§ 412.23 and 412.30 and add a new § 412.130 to implement the revisions concerning rehabilitation hospitals and units.

C. Outlier Payments (§ 412.84)

On February 28, 1991, we published a proposed rule to establish a prospective payment system for inpatient hospital-related capital costs (56 FR 8476). In that

document, we proposed modifying our outlier policy in order to take into account capital costs for unusually long length of stay or high-cost cases (56 FR 8486). As discussed in that proposed rule, we believe that it is appropriate to establish a unified outlier payment methodology for operating and capital costs. Thus, we would establish a single set of thresholds that would be used to identify outlier cases for both operating and capital payments. In the capital proposed rule, we stated that the percentage reduction for outliers in the capital standard payment rate would be the same as the aggregate percentage reduction in the operating standardized amounts. We would accomplish this by setting a single outlier pool target of 5.1 percent and would reduce the urban standardized amount, the rural standardized amount, and the capital payment rate by a factor that recognizes actual outlier payments to each group. We have proposed only one offset to the capital payment rate, rather than separate urban and rural offsets, because the capital standard payment rate does not vary based on urban or rural location, although hospitals in large urban areas will receive 1.6 percent add-on.

In the February 28, 1991 proposed rule, we proposed that capital-related payment for day outliers be determined based on the same provisions now in effect for operating-related costs. That is, the prospective portion of the capital payment rate for a DRG would be adjusted by the geometric mean length of stay for that DRG in order to determine a per diem capital-related outlier payment. Payment for cost outliers would be determined based on a single threshold that incorporates both capital-related costs and operating-related costs and the same marginal cost factor. We believe that it would be inappropriate to make cost outlier payments for high capital cost cases or high operating cost cases in which total capital-related and operating-related costs are below the cost threshold.

We are setting the outlier thresholds and the standardized amount reduction factors based on the assumption that capital payments are made on 100 percent of the Federal payment rate, instead of payment under the special transition period provisions. However, actual payments would be made only for the portion of capital payments that are based on the Federal rate. Outlier

payments would not be made on the hospital-specific portion of the payment to hospitals under the fully prospective methodology. For hospitals paid under the hold-harmless methodology, outlier payments would be made only on the payment for new capital that is based on the Federal rate. This method of estimating outlier payments is similar to the method used when the prospective payment system first was introduced for operating costs (see the January 4, 1984 final rule (49 FR 261)). Under that method, the outlier pool was set at a certain percentage level of Federal payments, but actual outlier payments were less than that percentage of total operating payments to hospitals because of the transition from hospital-specific to Federal rates. In addition, since it is not possible to determine at this point what proportion of capital payments to hospitals will be paid on the Federal rate (this depends on FY 1992 capital costs, in part), we cannot reliably set the outlier thresholds in any other manner. A detailed example of the combined outlier payment determination methodology was set forth in the February 28, 1991 capital proposed rule (56 FR 8497).

Therefore, for FY 1992, we propose to set the day outlier threshold at the geometric mean length of stay for each DRG plus the lesser of 32 days or 3 standard deviations and the cost outlier threshold at the greater of 2.0 times the prospective payment rate for the DRG or \$43,000. The proposed thresholds would essentially maintain the current outlier payment split with 42.8 percent of cases being paid using the cost outlier methodology and 57.3 percent using the day outlier methodology. Cases that meet the day outlier threshold but that would be paid using the cost outlier methodology, because it yields the higher payment, constitute 14 percent of all cases. Our simulation of FY 1992 outlier payments based on FY 1990 MEDPAR data indicates that the percentage of outlier cases that qualify as day outliers is about 71.2 percent. The cases qualifying as day outliers are expected to receive 78.1 percent of outlier payments in FY 1992. An estimated 28.8 percent of outlier cases would be cost only outlier cases, which are expected to receive about 21.9 percent of outlier payments. The following table illustrates this finding in greater detail:

Type of outlier	Percentage of outlier cases	Percentage of operating outlier payments	Percentage of capital outlier payments	Percentage of total outlier payments
Meets day threshold only	47.1	22.2	17.5	21.9
Meets day and cost thresholds, paid using day methodology	10.1	21.0	16.7	20.8
Meets day and cost thresholds, paid using cost methodology	14.0	35.2	38.4	35.4
Subtotal—All cases meeting day threshold	71.2	78.4	72.6	78.1
Meets cost threshold only	28.8	21.6	27.4	21.9
Total	100.0	100.0	100.0	100.0

When we modeled the combined outlier payments, we found that using a common set of thresholds would result in a lower percentage of outlier payments for capital-related costs than for operating costs. We estimate the proposed thresholds would result in outlier payments equal to 5.1 percent of operating DRG payments and 4.5 percent of capital payments based on the Federal rate.

The proposed outlier adjustment factors that would be applied to the standardized amounts and the capital Federal rate for FY 1992 are as follows:

Urban standardized amount	Rural standardized amount	Capital federal rate
0.944309	0.979808	0.954854

To evaluate the effect on operating outlier payments of capital prospective payments, we also calculated the outlier thresholds that would be appropriate in the absence of capital prospective payments. If we were to continue to pay outliers only on operating prospective payments, we would have proposed to set the day outlier threshold at the geometric mean length of stay for each DRG plus the lesser of 32 days or 3.0 standard deviations and the cost outlier threshold at the greater of 2.0 times the prospective payment rate for the DRG or \$39,000. The only difference between these thresholds and the thresholds that we are proposing is that the fixed dollar threshold for cost outliers only is \$4,000 lower. Because capital costs are approximately 10 percent of operating costs, we would expect the fixed cost threshold including capital to be approximately 10 percent higher than the fixed cost threshold for operating only, or approximately \$42,900. The threshold that we are proposing, at \$43,000, is very close to this expected level. At these threshold levels for operating outliers only, we would have expected approximately 56.9 percent of cases to be using the day outlier methodology and 43.1 percent of cases to be paid using the cost outlier methodology. However, 14.2 percent of day outlier cases would be paid under

the cost methodology because it would yield higher payments. These proportions of cases are very close to those found under our proposed thresholds which include capital outlier payments. We therefore believe that incorporating capital into outlier payments will not have a significant effect on operating outlier payments.

Table 8a in section IV of the addendum to this proposed rule contains the updated Statewide average operating cost-to-charge ratios for urban hospitals and for rural hospitals to be used in calculating cost outlier payments for those hospitals for which the intermediary is unable to compute a reasonable hospital-specific cost-to-charge ratio. Effective October 1, 1991, these Statewide average ratios replace the ratios published in the September 4, 1990 final rule (55 FR 36162). Table 8b contains comparable Statewide average capital cost-to-charge ratios. We propose that these average ratios would be used to calculate cost outlier payments for those hospitals for which the intermediary computes operating cost-to-charge ratios lower than 0.335 or greater than 1.252 and capital cost-to-charge ratios lower than 0.017 or greater than 0.255. This range represents 3 standard deviations (plus or minus) from the mean of the log distribution of cost-to-charge ratios for all hospitals. The cost-to-charge ratios in tables 8a and 8b would be applied to all hospital-specific cost-to-charge ratios based on cost report settlements occurring during FY 1992.

D. Rural Referral Centers (§ 412.96)

Under the authority of section 1886(d)(5)(C)(i) of the Act, § 412.96 sets forth the criteria a hospital must meet in order to receive special treatment under the prospective payment system as a rural referral center (that is, payment is based on the other urban payment rate rather than the rural payment rate). One of the criteria under which a rural hospital may qualify as a referral center is to have 275 or more beds available for use. A rural hospital that does not meet the bed size criterion can qualify as a rural referral center if the hospital meets two mandatory criteria (number of

discharges and case-mix index) and at least one of three optional criteria (medical staff, source of inpatients, or volume of referrals). With respect to the two mandatory criteria, a hospital is classified as a rural referral center if its—

- Case-mix index is equal to the lower of the median case-mix index for urban hospitals in its census region, excluding hospitals with approved teaching programs, or the median case-mix index for all urban hospitals nationally; and

- Number of discharges is at least 5,000 discharges per year or, if fewer, the median number of discharges for urban hospitals in the census region in which the hospital is located. (We note that the number of discharges criterion for an osteopathic hospital is at least 3,000 discharges per year.)

1. Case-Mix Index

Section 412.96(c)(1) provides that HCFA will establish updated national and regional case-mix index values in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. In determining the proposed national and regional case-mix index values, we would follow the same methodology we used in the November 24, 1986 final rule, as set forth in regulations at § 412.96(c)(1)(ii). Therefore, the proposed national case-mix index value includes all urban hospitals nationwide and the proposed regional values are the median values of urban hospitals within each census region, excluding those with approved teaching programs (that is, those hospitals receiving indirect medical education payments as provided in § 412.118).

These values are based on discharges occurring during FY 1990 (October 1, 1989 through September 30, 1990) and include bills posted to HCFA's records through December 1990. Therefore, in addition to meeting other criteria, we are proposing that to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 1991, a hospital's case-mix

index value for FY 1990 would have to be at least—

- 1.2567; or
- Equal to the median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.118) calculated by HCFA for the census region in which the hospital is located.

The median case-mix values by region are set forth in the table below:

Region	Case-mix index value
1. New England (CT, ME, MA, NH, RI, VT).....	1.1703
2. Middle Atlantic (PA, NJ, NY).....	1.1774
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV).....	1.2610
4. East North Central (IL, IN, MI, OH, WI).....	1.1945
5. East South Central (AL, KY, MS, TN).....	1.2073
6. West North Central (IA, KS, MN, MO, NB, ND, SD).....	1.1823
7. West South Central (AR, LA, OK, TX).....	1.2584
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY).....	1.2808
9. Pacific (AK, CA, HI, OR, WA).....	1.2795

The above numbers will be revised in the final rule to the extent required if additional bills are received for discharges through September 30, 1990.

For the benefit of hospitals seeking to qualify as referral centers or those wishing to know how their case-mix index value compares to the criteria, we are publishing the FY 1990 case-mix index values in table 3c in section IV of the addendum of this proposed rule. In keeping with our policy on discharges, these case-mix index values are computed based on all Medicare patient discharges subject to DRG-based payment.

2. Discharges

Section 412.96(c)(2)(i) provides that HCFA will set forth the national and regional numbers of discharges in each year's annual notice of prospective payment rates for purposes of determining referral center status. As specified in section 1886(d)(5)(C)(i)(II) of the Act, the national standard is set at 5,000 discharges. However, we are proposing to update the regional standards, which are based on discharges for urban hospitals during FY 1989 (that is, October 1, 1988 through September 30, 1989). That is the latest year for which we have complete discharge data available.

Therefore, in addition to meeting other criteria, we are proposing that to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 1991, a hospital's number of discharges for its cost

reporting period that began during FY 1990 would have to be at least—

- 5,000; or
- Equal to the median number of discharges for urban hospitals in the census region in which the hospital is located, as indicated in the table below.

Region	No. of discharges
1. New England (CT, ME, MA, NH, RI, VT).....	6,991
2. Middle Atlantic (PA, NJ, NY).....	8,454
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV).....	6,683
4. East North Central (IL, IN, MI, OH, WI).....	8,130
5. East South Central (AL, KY, MS, TN).....	6,117
6. West North Central (IA, KS, MN, MO, NB, ND, SD).....	6,166
7. West South Central (AR, LA, OK, TX).....	4,831
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY).....	7,854
9. Pacific (AK, CA, HI, OR, WA).....	5,161

We again note that to qualify for rural referral center status for cost reporting periods beginning on or after October 1, 1991, an osteopathic hospital's number of discharges for its cost reporting period that began during FY 1990 would have to be at least 3,000.

E. Indirect Medical Education Costs (§ 412.118)

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that have residents in an approved graduate medical education program receive an additional payment to reflect the higher indirect operating costs associated with graduate medical education. The regulations governing the calculation of this additional payment are set forth at § 412.118. Each hospital's additional indirect medical education (IME) payment is determined by multiplying the hospital's total DRG revenue by the applicable IME adjustment factor.

Section 4002(b)(3)(B) of Public Law 101-508 revised section 1886(d)(5)(B)(ii) of the Act to delete the scheduled increase in the IME adjustment factor from approximately 7.7 percent to 8.1 percent for every 10 percent increase in the hospital's resident-to-bed ratio for discharges occurring on or after October 1, 1995. The IME adjustment factor is an approximation because it is applied on a curvilinear or variable basis. That is, each absolute increment in a hospital's resident-to-bed ratio does not result in an equal proportional increase in costs. The deletion of the scheduled increase in the adjustment factor was made as a conforming amendment to the repeal of the sunset provision for the

disproportionate share adjustment. To implement this change, we would delete both § 412.118(c)(2), which specifies a larger IME adjustment factor for discharges occurring on or after October 1, 1995, and § 412.118(d)(2), which sets forth the steps for calculating the IME adjustment factor for discharges occurring on or after October 1, 1995. We are also correcting a typographical error in newly redesignated § 412.118(c). That paragraph currently states that the .405 factor applied to determine the amount of each hospital's adjustment is effective with discharges "on or after May 1, 1988"; however, as set forth in section 1886(d)(5)(B)(ii) of the Act, the correct effective date is "on or after May 1, 1986".

F. Ceiling on Rate of Hospital Cost Increases (§ 413.40)

Section 101 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) added section 1886 of the Act to establish a ceiling on the allowable rate of increase for hospital inpatient operating costs. This ceiling still applies to hospitals and units excluded from the prospective payment system. Under section 1886(d)(1)(B) of the Act, excluded hospital and hospital units include psychiatric, rehabilitation, cancer, children's and long-term hospitals, and psychiatric and rehabilitation distinct-part units of acute care hospitals. (Prior to FY 1988, alcohol/drug hospitals and distinct-part units were also excluded from the prospective payment system, but are now paid under the prospective payment system.)

These excluded hospitals and units receive payment for the inpatient hospital services they furnish on the basis of reasonable cost up to a ceiling. Under the rate of increase limits, an annual target amount (stated as inpatient operating cost per discharge) is set for each hospital based on the hospital's own cost experience in its base year. This target amount is applied as a ceiling on the allowable costs per discharge for the hospital's next cost reporting period.

A hospital that has inpatient operating costs less than its target amount would be paid its costs plus the lower of—

- 50 percent of the difference between the inpatient operating cost per discharge and the target amount; or
- 5 percent of the target amount.

For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1991, hospitals that have inpatient operating costs per discharge in excess of their target amount are to be paid no more than that amount.

However, section 4005(a) of Public Law 101-508 amended section 1886(b)(1)(B) of the Act to provide that hospitals with cost reporting periods beginning on or after October 1, 1991 are allowed 50 percent of the costs in excess of the target amount, but this additional payment is not to exceed 10 percent of the target amount (after any exceptions or adjustments are made to the target amount for the cost reporting period). We are proposing to revise § 413.40(d)(3) to implement this provision.

Each hospital's target amount is adjusted annually, before the beginning of its cost reporting period, by an applicable target rate percentage for the 12-month period. The limit is based on an assumption that a provider's year-to-year inpatient operating costs should remain comparable to its base year, except for inflation. Section 1886(b)(4)(A) of the Act gives the Secretary the authority to grant an exemption from, or an adjustment or exception to, the target rate-of-increase limit where events beyond the hospital's control or extraordinary circumstances create a distortion in the increase in costs. In addition, section 6015 of Public Law 101-239 amended 1886(b)(4)(A) of the Act to provide that a hospital or excluded unit may be assigned a new base year in lieu of adjustments to the existing target rate.

To implement section 1886(b)(4)(A) of the Act, the regulations provide that HCFA may adjust a hospital's operating costs considered in establishing costs per case for purposes of determining the target amount, including both the periods subject to the limit and the hospital's base period, as follows:

- Section 413.40(g) provides for an exception to the target amount to take into account unusual costs due to extraordinary circumstances beyond the provider's control or distortions in costs caused by a change in case mix as a result of the addition or discontinuation of services.

- Section 413.40(h) provides for an adjustment to take into account factors such as a change in the inpatient services that a hospital provides that could result in a significant distortion in the operating costs of inpatient hospital services.

- Effective with cost reporting periods beginning on or after April 1, 1990, § 413.40(j) provides that a new base period will be assigned to address substantial and permanent changes in patient care services that are so broad in nature that the resulting cost distortion cannot be adequately addressed through the more targeted exceptions and adjustments available under §§ 413.40(g) and (h).

The adjustments may be made only if the hospital exceeds its limit for the cost reporting period and only to the extent the hospital's costs are reasonable, attributable to the circumstances specified as creating the cost distortion, and are verified by the intermediary. (In addition to the provisions outlined above which implement section 1886(b)(4)(A) of the Act, § 413.40(i) provides for an adjustment to the target amount authorized by the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) as amended by the Family Support Act of 1988 (Pub. L. 100-485) and the Medicare Catastrophic Coverage Repeal Act of 1989 (Pub. L. 101-234) to take into account cost distortions due to the temporary elimination of the day limitation on inpatient hospital services under catastrophic coverage.)

1. The Appeals Process (§ 413.40(e))

The general procedures for applying for an exemption or adjustment to the rate-of-increase limit are described in § 413.40(e). Section 413.40(e) requires that the hospital file its request with its fiscal intermediary no later than 180 days from the date on the notice of program reimbursement issued by the intermediary. The intermediary makes a recommendation on the hospital's request to HCFA, which makes the decision. HCFA responds to the request within 180 days from the date HCFA receives the request from the intermediary. The intermediary notifies the hospital of HCFA's decision.

Section 4005(c)(1)(A) of Public Law 101-508 amended section 1816(f) of the Act to require that the performance standards and criteria for fiscal intermediaries include the ability to process a completed application for an adjustment to the target amount not later than 75 days after the application is filed, and, if the application is incomplete, to return it with proper instructions within 60 days. This provision should decrease substantially the processing time applied by intermediaries before forwarding hospital applications to HCFA.

Section 4005(c)(1)(B) of Public Law 101-508 amended section 1886(b)(4)(A) of the Act by adding a requirement that the Secretary issue a decision on any request for an exemption, exception, or adjustment to the target amount not later than 180 days after receiving a completed application from the intermediary. Further, the provision requires that the Secretary issue a detailed explanation of the grounds on which the request was approved or denied. The statutory provision essentially codifies our current policy

for processing rate-of-increase limit appeals. Under our current procedures, until we receive a hospital's completed application and any recommendation from the intermediary, the 180-day period does not begin to run. We do not count within the 180-day limitation the time required to secure the additional information needed to reach a decision on the request. Although there are some instances in which appeals have not been processed within the 180-day period even though all necessary information has been submitted, most decisions that have taken more than 180 calendar days have involved delays because needed documentation was not included in the original request. Further, in issuing a decision, we provide an explanation of the basis for our decision. Nevertheless, to reflect the statutory requirements, we are proposing to revise § 413.40(e) to state explicitly that HCFA's decision will be issued within 180 days of receiving a completed application with the intermediary's recommendation and that the decision will contain a detailed explanation of the grounds for the approval or denial.

An adjustment to the target amount is granted only if the hospital's costs are reasonable, the cost increase is attributable to significant changes in the provision of services or the type of patient served, and the effect of those changes on the hospital's costs is separately identified by the hospital and verified by the intermediary. Some requests for an adjustment to the target amount do not contain sufficient justification and documentation to support a favorable decision. For example, a request for an adjustment may set out the circumstances that caused the cost distortion to occur but fail to quantify the effect of those circumstances on the hospital's costs. In other cases, the increased costs may be appropriately documented but the application does not link the increases to changes in patient care services.

Although we deny the request based on the information in the application, we also indicate a willingness to reconsider our decision if the hospital submits additional information. Since this has been an informal procedure, we have not established a time limit within which the hospital has to submit additional information. In some instances, we have received additional information several years after we issued our initial decision. We do not believe it is appropriate for the appeals process to be prolonged in this manner. Therefore, we are proposing to formalize our reconsideration process by

providing that HCFA's decision will be considered final unless a hospital submits additional information within 90 days of the date the intermediary notifies the hospital of HCFA's decision. We believe that 90 days is a reasonable amount of time for the hospital to develop whatever additional documentation is needed to support its request.

In processing applications for adjustments, we have identified situations where we do not believe it is necessary for HCFA to review the request. One example is an application for an adjustment to the target amount that is based on circumstances that are similar to those in an earlier cost reporting period for which HCFA has already issued a decision. Another example would involve circumstances for which our adjustment policy is well-established; that is, the type of circumstances that gave rise to the cost increases is generally accepted as a basis for adjustment, the evaluation of whether the circumstances actually occurred is relatively straightforward, and there is an established methodology for determining the amount of the exception. In these situations, we believe that direct review by HCFA of the hospital's request for an adjustment would unnecessarily delay commencement of the appeals process. To streamline the application review process in these situations, we are proposing to provide that HCFA may authorize the intermediary to make the final determination on a request for an adjustment under § 413.40(g). This authorization may be for specific hospitals or for specific circumstances. The authorization for specific hospitals for subsequent cost reporting periods would be issued at the same time as the decision on the initial adjustment request. The authorization for specific circumstances would be issued through manual instructions and would be applicable only if one of those circumstances were the only basis for an adjustment request. If HCFA authorizes the intermediary to make the final determination, the decision would be subject to the same rules as a decision issued by HCFA. The intermediary would be required to issue a decision that included a detailed explanation of the grounds for approval or disapproval within 180 days of receiving a completed application from the hospital. The decision would be subject to review under the administrative and judicial review provisions set forth in subpart R of 42 CFR part 405.

2. Exceptions and Adjustments (§§ 413.40(g) and 413.40(h))

We have found that the separate provisions at §§ 413.40(g) and 413.40(h) for adjustments in the hospital's costs per case have resulted in confusion. One source of confusion has been the use of the term "exceptions" under § 413.40(g) and the term "adjustments" under § 413.40(h). There is no substantive difference between the two terms as they are applied under § 413.40 and the terms may be used interchangeably to describe the general procedure for adjusting a hospital's costs for purposes of determining the target amount.

To eliminate confusion on this point, we are proposing to combine the provisions of § 413.40(g) and § 413.40(h). As a result of this change, there would be a single provision, that is, proposed § 413.40(g), which would be used to describe the basis of adjustments to the target amount authorized under section 1886(b)(4)(A) of the Act that do not involve the assignment of a new base period. The term "exceptions" would no longer be used to describe these adjustments.

A second source of confusion has been the adjustment for change in case mix authorized under § 413.40(g)(3). Originally, § 413.40(g) applied to acute care hospitals that became subject to the prospective payment system effective with cost reporting periods beginning on or after October 1, 1983, as well as hospitals that are currently excluded from the prospective payment system. Since case mix in acute care hospitals could be readily measured by the DRG classification system and relative weights, there was a straightforward method to document case-mix changes to justify an adjustment in the target amount under § 413.40(g)(3). This provision is generally no longer applicable since there is no good measurement of case mix in excluded hospitals. In fact, a major reason these hospitals are excluded from the prospective payment system is that the existing DRGs do not adequately differentiate among the patients served within each type of excluded hospital. As a result, target amount adjustments for the cost distortions resulting from a change in the type of patient treated have been made under § 413.40(h)(1) instead of § 413.40(g)(3). Also, under our current policy, any situation that would qualify for an adjustment under § 413.40(g)(3) would also qualify for an adjustment under § 413.40(h)(1) since it would involve a cost distortion that would make the cost reporting period subject to the ceiling not comparable with the

base period. Therefore, we are proposing to eliminate the specific adjustment for case mix described in § 413.40(g)(3). Hospitals would continue to qualify for an adjustment under current § 413.40(h)(1) for cost distortions attributable to a change in the type of patient treated. Since § 413.40(h) does not explicitly identify a change in the type of patient treated as a basis for an exception, we have added this as an example of a situation that would warrant an adjustment.

We would incorporate the remainder of § 413.40(g) with the contents of § 413.40(h) into a newly redesignated § 413.40(g) with editorial changes to eliminate duplication. (As a consequence, paragraphs (i) and (j) of § 413.40 would be redesignated as paragraphs (h) and (i), respectively.)

3. Adjustment for Significant Wage Increases (§ 413.40(g))

Under current policy, significant increases in wages since the base period are not recognized as a basis for an adjustment in the target amount under current § 413.40(h). This is because wage increases are accounted for by the update factor. One of the assumptions behind the rate-of-increase limit has been that if a hospital needed to increase costs in one area beyond the amount provided by the update factor, cost containment measures would be taken in other areas. However, as discussed below in section IV.F.5 of this preamble, Congress has explicitly provided that increase in wages should be taken into consideration in determining whether to assign a new base period. Since wage increases are to be considered in the new base period determination, we believe it is also appropriate to provide a limited adjustment under newly redesignated § 413.40(g) for wage increases significantly in excess of the increase in the national average hourly wage accounted for by the update factor. We are proposing to establish a specific methodology for these exceptions so that we could authorize the intermediary to make the determination on the adjustment request.

To qualify for an adjustment, the excluded hospital or hospital unit would have to be located in a geographic area that is determined to have an average hourly wage that increased significantly more than the national average hourly wage over the period. This criterion is consistent with the statutory basis for considering wage increases in assigning a new base period. We proposed to use the hospital wage index for prospective payment hospitals to determine the rate

of increase in the average hourly wage in the labor market area. To be eligible, a given area must have had at least an 8 percent increase between its wage index value based on 1982 wage data and its wage index value based on 1988 wage data. If the hospital's base period begins in FY 1984 or later, the geographic area must have had at least an 8 percent increase between the wage index value based on 1984 data and the wage index value based on 1988 wage data. Since the wage index measures the relative wage levels in the area, a change in the wage index value for a given area indicates the extent to which the rate of increase in the average hourly wage in the labor market area is above or below the rate of increase in the national average hourly wage. In the September 4, 1990 final rule, we cited 8 percent as the threshold for significant changes in the wage index (see 55 FR 36041). We believe that, in this case, it also appropriately reflects a change that should be accounted for through an adjustment in the target amount. The latest applicable wage data would be used in all cases for this comparison. Further, the comparison would be made without regard to any geographic reclassifications under sections 1886(d) (8) and (10) of the Act. We believe it is appropriate for the measurement of the rate of increase to be based on the rate of increase in average hourly wage for the hospitals that are physically located in the same labor market area. The inclusion of wage data for hospitals that have been reclassified to the geographic area or the exclusion of wage data for hospitals that have been reclassified from the area would distort the comparison since the resulting changes in the average hourly wages would be attributable to changes in the mix of hospitals as well as increases in wages.

The wage index values based on 1982 and 1984 wage data reflect variation in average hourly wages and salaries. The wage index values that are based on 1988 wage data include fringe benefits and home office salaries in addition to salaries and fringe benefits. We do not believe this presents a problem under our proposed methodology. Generally, fringe benefits are highly correlated with wages and salaries, and we would expect the relative rates of increase to be similar.

Example: A rehabilitation hospital located in Boston, Massachusetts has a base period beginning January 1, 1984. The wage index value for Boston, Massachusetts based on 1984 wage data was 1.0813. The wage index value based on 1988 wage data is 1.1826. The rate of increase above the national average rate

of increase equals $(1.1826 - 1.0813) / 1.0813$, or 9.37 percent. Since the additional rate of increase is more than 8 percent, the hospital may qualify for a wage adjustment.

The amount of the adjustment for wage increases would be determined by taking three factors into account between the base period and the period for which an adjustment is requested: the rate of increase in the hospital's average hourly wage; the rate of increase in the average hourly wage in the labor market area; and the rate of increase in the national average hourly wage for hospital workers. The adjustment would be limited to the amount by which the lower of the hospital's or the labor market area's rate of increase in average hourly wages significantly exceeds the national increase (that is, exceeds the national rate of increase by more than 8 percent). For purposes of computing the adjustment, the relative rate of increase in the average hourly wage for the labor market area would be assumed to have been the same over each of the years covered by the wage surveys. In addition, it would also be assumed to be applicable to subsequent years until more recent wage data become available to determine the actual rate of increase relative to the national average in the subsequent years.

Example: The rate of increase in the average hourly wage in Boston, Massachusetts was 9.37 percent higher than the national rate of increase between 1984 and 1988. That is, wages grew 9.37 percent more rapidly in Boston, Massachusetts than nationally. We will assume that this rate of increase is applicable to each of the years between 1984 and 1988 and, until a new wage index is published, to 1989 and later.

To determine the rate of increase in the national hourly wage, we are proposing to use the average hourly earnings (AHE) component of the wages and salaries portion of the market basket for three reasons. First, it is a price proxy that can be measured historically back to 1982. Second, it adjusts for shifts in skill mix. Finally, it measures earnings much like the area wage index, because it is calculated by dividing gross payrolls by total hours. This measure would be derived from the 1982-based market basket since the 1987-based market basket uses the employment cost index (ECI) for hospital workers as the price proxy for this component. Unlike the AHE, the ECI for hospital workers can be measured historically only back to 1986. In addition, the ECI does not adjust for

skill-mix shifts and, therefore, measures only the change in wage rates per hour.

The average hourly earnings for hospital workers as measured by the market basket show the following increases:

1983=8.4 percent
1984=5.6 percent
1985=5.4 percent
1986=4.1 percent
1987=4.7 percent
1988=6.5 percent
1989=6.9 percent
1990=5.6 percent

We propose to use the following methodology to determine if an adjustment for significant wage increases is appropriate:

Step 1: Compare the hospital's rate of increase in average hourly wages to the rate of increase in the labor market area. The hospital's rate of increase is calculated by dividing its average hourly wage in the year for which the adjustment is requested by its average hourly wage in the base year. The rate of increase in the labor market area is computed by multiplying the cumulative percentage increase in the AHE for hospital workers by the applicable percentage change in the wage index. The lower of the two rates of increase will be used in Step 3.

Step 2: Determine the threshold for the adjustment. The threshold is equal to the cumulative percentage increase in the AHE for hospital workers over the period in question multiplied by 1.03.

Step 3: Subtract the amount determined in Step 2 from the lower of the two amounts determined in Step 1. This result is the percentage increase that is considered significantly above the increase that is accounted by the update factor.

Step 4: Determine the proportion of the hospital's operating costs that is attributable to wages and fringe benefits. Adjust this proportion of the hospital's target amount to account for the wage increase by multiplying it by the percentage increase determined in Step 3. As is the case with other adjustments under current § 413.40(h), the adjustment will be made only to the extent the hospital's costs are in excess of the target amount.

Example: A hospital located in Boston, Massachusetts has a base year of 1984 and is requesting an adjustment for its 1990 cost reporting period. Over this period, its average hourly wage increased from \$8.00 to \$12.63. The hospital's salaries and fringe benefits constitute 55 percent of its operating costs. In FY 1990, its operating costs per

case were \$8000 and its target amount prior to adjustment was \$7600.

Step 1: a. Determine the hospital's rate of increase in average hour wages:

$$\$12.63 - \$8.00 / \$8.00 = .578, \text{ or } 57.8 \text{ percent}$$

b. Determine the labor market area's rate of increase in average hourly wages by multiplying the national average increase by the rate at which the increase in average hourly wages in the Boston MSA exceeded the national rate of increase (9.37 percent):

$$1985 \quad 5.4 \times 1.0937 = 5.91$$

$$1986 \quad 4.1 \times 1.0937 = 4.48$$

$$1987 \quad 4.7 \times 1.0937 = 5.14$$

$$1988 \quad 6.5 \times 1.0937 = 7.11$$

$$1989 \quad 6.9 \times 1.0937 = 7.55$$

$$1990 \quad 5.6 \times 1.0937 = 6.12$$

$$(1.0591 \times 1.0448 \times 1.0514$$

$$\times 1.0711 \times 1.0755 \times 1.0612)$$

$$= 1.422, \text{ or } 42.2 \text{ percent}$$

Since the rate of increase in the labor market area (42.2 percent) is less than the hospital's rate of increase (57.8 percent), the increase in the labor market area will be used in the rest of the calculations.

Step 2: Determine the adjustment threshold by increasing the rate of increase in the national hourly average wage by 8 percent.

$$5.4 \times 1.08 = 5.83$$

$$4.1 \times 1.08 = 4.43$$

$$4.7 \times 1.08 = 5.08$$

$$6.5 \times 1.08 = 7.02$$

$$6.9 \times 1.08 = 7.45$$

$$5.6 \times 1.08 = 6.05$$

$$(1.0583 \times 1.0443 \times 1.0508$$

$$\times 1.0702 \times 1.0745 \times 1.0605)$$

$$= 1.416, \text{ or } 41.6 \text{ percent}$$

Step 3: Determine the adjustment to the wage-related portion of the target amount by subtracting the amount determined in Step 2 from the amount determined in Step 1:

$$42.2 \text{ percent} - 41.6 \text{ percent} = 0.6 \text{ percent}$$

Step 4: Determine the adjusted target amount.

a. Determine the wage-related portion of target amount subject to adjustment = $\$7600 \times .55 = \4180

b. Apply the adjustment determined in Step 3 to the wage-related portion of target amount = $\$4180 \times 1.006 = \4205.80

c. Determine the adjusted target amount by adding the adjusted wage-related portion of the target amount to the nonwage-related portion = $\$4205.80 + (\$7600 \times .45) = \$7625.80$

Since \$7625.80 is less than the hospital's operating costs per case, the full adjustment will be authorized.

Since we are proposing that a specific methodology be used to make the wage adjustment, we would authorize the intermediary to make the determinations on these requests for an

adjustment due to a significant wage increase.

4. Adjustment for Part B Services (Current § 413.40(h))

Current § 413.40(h)(1)(i) states that base period costs are to be adjusted to explicitly include services billed under Part B of Medicare during the base period, but paid under Part A during the subject cost reporting period. The purpose of this provision was to take into account the requirement that the hospital furnish directly or under arrangements all nonphysician services furnished to inpatients effective October 1, 1983. With this requirement, outside suppliers were no longer permitted to bill directly under Part B for services they furnished to hospital inpatients.

Section 4003 of Public Law 101-508 amended section 1886(a)(4) of the Act by expanding the definition of inpatient hospital services to include diagnostic or other services that are related to the admission (as defined by the Secretary) that are provided by the hospital (or by an entity wholly owned or operated by the hospital) during the 3 days immediately preceding the date of the patient's admission. We are implementing this provision through program instructions and a separate Federal Register document.

To the extent a hospital furnishes services prior to admission that were not considered inpatient hospital services in the base period, there will be a cost distortion between the base period and the current cost reporting period. Current § 413.40(h)(1)(i) provides that the cost distortion would be corrected through an adjustment to the base period. We do not believe it is feasible for hospitals to reconstruct from base period billing information the cost of services that would be affected by section 4003 of Public Law 101-508. Therefore, we are proposing to delete the reference to the base period adjustment. As revised, adjustment for Part B services to either the base period or the current period would be authorized.

5. Assignment of a New Base Period (Current § 413.40(j))

Section 1886(b)(4)(A) of the Act, as amended by section 6015(a) of Public Law 101-239, authorizes the Secretary to assign a new base period to a hospital if it is more representative of the reasonable and necessary costs of its inpatient services. Implementing regulations were published in the April 20, 1990 final rule with comment period (55 FR 15157) and the comments received on that rule were discussed in the September 4, 1990 final rule (55 FR

36003). Current § 413.40(j) provides that the Secretary may assign a new base period if the hospital experiences a substantial and permanent change in patient care services that is so broad in nature that the resulting cost distortion cannot be adequately addressed through the more targeted adjustments available under current §§ 413.40 (g) and (h) (to be redesignated as § 413.40(g)). As is the case with adjustments, rebasing is authorized only if the hospital's operating costs per discharge are in excess of its target amount.

Section 4005(c)(2) of Public Law 101-508 amended section 1886(b)(4)(B) of the Act to include factors that the Secretary must take into consideration in determining whether to assign a new base period. These factors are the following:

- Changes in applicable technologies and medical practices.
- Differences in the severity of illness among patients.
- Increases in wages and wage-related costs for hospitals in the area that exceed the national average increases.

• Such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.

The Conference Committee report accompanying the legislation noted that the assignment of the new base period falls within the Secretary's discretionary authority to grant adjustments to the target amount. (See H.R. Rep. No. 964, 101st Cong., 2nd Sess. 704 (1990).) The conferees stated that although the Secretary was required to take into consideration certain factors in determining whether to assign a new base period, the Secretary may take into consideration other factors that might lead to a determination that a new base period is not warranted. Further, the conferees noted that they did not expect the increase in wage-related costs in the area to result in automatic assignment of the base period. The amendment is effective for cost reporting periods beginning on or after April 1, 1990.

We are proposing to revise current § 413.40(j)(1) (proposed redesignated § 413.40(i)(1)) to include the factors specified in section 1886(b)(4)(B) of the Act in the determination of whether the hospital's costs are necessary and proper. We intend to take these factors into account in conjunction with the factors that are already identified in § 413.40(j)(1). The current factors identified in § 413.40(j)(1) constitute other factors that we believe are appropriate in determining whether the cost increases warrant rebasing. We do

not anticipate that any of the added factors in isolation would result in the assignment of a new base period since these factors in isolation can be accommodated through the adjustment provisions provided in proposed redesignated § 413.40(g). However, we would consider the hospital's documentation of the changes in technology, medical practices, and patient severity and the impact of those changes on the hospital's costs as support that the requirement that there has been a substantial and permanent change in furnishing patient care has been met. We would consider the hospital's demonstration that the wage increases in the area have exceeded the national average increase and have had a substantial impact on the hospital's costs in determining whether increases in the hospital's wage costs are necessary and proper.

The circumstances under which we would authorize the assignment of a new base period would continue to be limited to those involving substantial and permanent changes in patient services that cannot be addressed by the more targeted adjustments provided for by proposed § 413.40(g). To some extent, cost increases for new technologies and changes in medical practice patterns are offset by productivity improvements and are taken into account in the update factor. When the new technology or change in medical practice patterns results in the provision of a new service, it creates a cost distortion that would be a basis for an adjustment to the target amount under § 413.40(g). Similarly, cost increases that are attributable to changes in the patient population that results in increases in service intensity or length of stay are a basis for an adjustment. As explained above in section IV.F, we are proposing to establish an adjustment under § 413.40(g) for significant wage increases.

G. Direct Graduate Medical Education Payments (§ 413.86)

Section 1886(h)(5)(A) of the Act provides that "[t]he term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary." On September 29, 1989, we published a final rule in the *Federal Register* (54 FR 40286) that added a new § 413.86, which included a new counting methodology for determining resident

full-time equivalents (FTEs) for graduate medical education payment (GME) purposes. In § 413.86(b), we defined Approved medical residency program as a program that meets one of three criteria. Under the second criterion, the program "may count towards certification of the participant in a specialty or subspecialty listed in the Directory of Residency Training Programs published by the American Medical Association. In reviewing the second criterion, we have determined that the definition is not sufficiently broad in accordance with section 1886(h)(5)(A) of the Act. That is, the Directory of Residency Training Programs published by the American Medical Association is not the sole directory of specialties and subspecialties that are counted toward certification by a national organization. In addition, the American Board of Medical Specialties publishes a current directory of approved programs in its Annual Report and Reference Handbook. An approved program is one for which a member specialty board of the American Board of Medical Specialties may confer a general or subspecialty certificate. Therefore, we would amend the third criterion of Approved medical residency program under § 413.86(b) to include programs that may count towards certification of the participant in a specialty or subspecialty listed in the Annual Report and Reference Handbook published by the American Board of Medical Specialties.

H. Funding of Depreciation (§ 413.134)

Under section 1861(v)(1)(A) of the Act, Congress has given the Secretary broad latitude to prescribe regulations concerning Medicare payment to providers on a reasonable cost basis. Under the authority of this and other provisions of the Act, we have adopted the regulation that is now codified at § 413.134(e). Section 413.134(e) provides that, although we do not require the funding of depreciation, we strongly recommend it as a means to conserve funds for the replacement of assets. To encourage the funding of depreciation, we have specified at §§ 413.134(e) and 413.153 that investment income earned on funded depreciation will not be used to reduce allowable interest expense. However, we have also been aware that some providers may be reluctant at times to spend funded depreciation for capital purposes and may prefer to borrow money for capital purposes, and incur interest expense, even when funded depreciation is available. HCFA has long taken the position that such a borrowing would be unnecessary to the

extent of available funded depreciation and would be contrary to the requirements of § 413.153.

Historically, in determining whether funded depreciation funds were available, HCFA generally required that funded depreciation funds that were not "expended" would be considered available. However, on occasion, HCFA recognized borrowing for a capital purpose to be necessary despite the presence of unexpended funded depreciation when certain factors were present. In an effort to clarify the policy regarding when funded depreciation funds would be considered available, in January 1983, HCFA published sections 226.C and 226.4.C of the Provider Reimbursement Manual (HCFA Pub. 15-1). These sections provided that funded depreciation funds would be considered available unless the funds had been committed to a capital project by contract. This requirement of "contractual commitment" relaxed the more strict "expended" policy, which HCFA had applied with rare exception.

Recently, the United States District Court for the District of Delaware decided, in *St. Francis Hospital, Inc. v. Sullivan*, No. 89-291-JJF (D.Del. March 1, 1991), that we have erred procedurally by not adopting the "contractually committed" standard through notice and comment rulemaking under the Administrative Procedure Act. Although we do not agree with this decision, we want to remove any doubt about the applicability of the "contractually committed" standard. Accordingly, we are proposing to revise § 413.134(e) to codify the "contractually committed" standard.

The Court in *St. Francis Hospital* also addressed the issue of spenddown to cure an unnecessary borrowing. Spenddown is a process whereby a borrowing that was originally determined to be unnecessary due to the existence of available funded depreciation is subsequently deemed necessary if the funded depreciation that resulted in the unnecessary borrowing determination later is used for an intended purpose of funded depreciation. However, if additional deposits have been made to funded depreciation after the incurrence of unnecessary borrowing, withdrawals from the funded depreciation subsequent to a determination of unnecessary borrowing are made on a last-in, first-out basis (typically, withdrawals for a proper purpose are made on a first-in, first-out basis). That is, spending from the funded depreciation must come from the additional deposits before spending can

be allotted from the portion of the funded depreciation that resulted in the unnecessary borrowing. Although the spenddown policy is not currently spelled out in either regulations or program manuals, it has been applied consistently in implementing the Medicare program.

We are proposing to revise § 413.134 to set forth in the regulations a statement of HCFA's spenddown principle. By proposing explicit language in the regulations text detailing the proper order for withdrawing funds from funded depreciation subsequent to a determination of unnecessary borrowing, we would clarify for providers how they can properly effect a spenddown of depreciated funds to cure unnecessary borrowing. This provision is also intended to prevent hospitals with available cash from curing unnecessary borrowing through financial manipulation. We do not anticipate that the proposed provisions will have a major effect, because it has been our experience that most providers and fiscal intermediaries already understand and comply with the policy expressed in these provisions.

We are also proposing to clarify our policy that withdrawals from funded depreciation that do not meet the requirements for proper withdrawals are considered improper withdrawals. Improper withdrawals would be deemed to be made on a last-in, first-out basis. Finally, we are cross-referencing our revisions to § 413.134(e) in § 413.153(a)(2)(iii).

V. Other ProPAC Recommendations

We have reviewed the March 1, 1991 report submitted by ProPAC to Congress and have given its recommendations careful consideration in conjunction with the proposals set forth in this document. Recommendations 1 and 6 concerning the update factors are discussed in appendix C of this document. Recommendation 4 concerning incorporating the occupational mix data into the area wage index is discussed in section III of this preamble. Recommendation 5 concerning adjusting payments for acute myocardial infarction (AMI) is discussed in section II.C of this preamble. The remaining recommendations are discussed below.

A. Data for Evaluating Case-Mix Change (Recommendation 2)

Recommendation: The Secretary should collect the data necessary to apportion case-mix index change into its real and upcoding components.

Response: We agree with ProPAC concerning the need for ongoing and

systematic analysis of case-mix change. To determine an appropriate allowance for case-mix increases in the annual update factor, it is important that we establish a sound empirical basis for differentiating between real increases and increases that result from changes in coding behavior. During the past two years, studies by Rand Corporation for HCFA and ProPAC have used SuperPRO data to apportion observed case-mix change between real changes and those attributable to coding behavior. More recent SuperPRO data are not sufficiently representative to be used for this purpose. Therefore, HCFA is currently evaluating viable alternatives for evaluating case-mix change and will work with ProPAC to determine how best to continue this important component of analysis.

B. The Indirect Medical Education Adjustment (Recommendation 3)

Recommendation: The indirect medical education (IME) adjustment to PPS should be reduced from its current level of 7.7 percent to 7.0 percent for FY 1992. This reduction should be implemented in a budget-neutral fashion, with the anticipated decrease in IME payments returned to all hospitals through corresponding increases in the standardized payment amounts. Before recommending further reductions, ProPAC intends to examine the financial status of teaching hospitals to determine whether further reductions in the IME adjustment would produce deleterious effects on access to care for Medicare beneficiaries.

Response: ProPAC's recommended reduction of 0.7 percentage points in the IME adjustment represents one-fifth of the difference between the current level of 7.7 percent (set forth at section 1886(d)(5)(B)(ii) of the Act) and 4.2 percent, which is ProPAC's most recent estimate of the effect of teaching activity on inpatient operating costs. That is, ProPAC estimates that for every 10 percent change in the resident-to-bed ratio, there is, on average, a 4.2 percent increase in Medicare inpatient operating costs per case.

The statistical model ProPAC used to generate the estimate of 4.2 percent is different from previous models in that it did not control for the effects on costs of a disproportionate share of low-income patients. When controlling for these effects, ProPAC's estimate was 2.1 percent. The difference in the estimates is due to the overlap of hospitals receiving both the IME and the disproportionate share adjustments.

We agree that the IME adjustment should be reduced from its current level. The President's budget for FY 1992

proposes to reduce the adjustment over 5 years, starting at 4.4 percent during FY 1992, and gradually reducing it to 4.1 percent in FY 1993, 3.8 percent in FY 1994, 3.5 percent in FY 1995, and 3.2 percent in FY 1996. Because we believe payment levels to other hospitals are adequate, the money saved from reducing the adjustment should be retained as budget savings rather than redistributed among all hospitals, as proposed by ProPAC. Our proposal to lower the adjustment to 3.2 percent over a 5-year period is based on the results of the analysis ProPAC included in its March 1, 1990 report, which estimated a 3.2 percent effect of graduate medical education on higher operating costs. This estimate was attained by controlling for all payment variables, including disproportionate share payments. We believe it is appropriate to control for the effects of disproportionate share when estimating the effects of teaching. Not controlling for the effects of all of the payment variables distorts the results by loading the effects of the excluded variables onto the estimates of the other variables.

Continuing to pay IME at the current level, or reducing it to 7.0 percent as proposed by ProPAC, would result in payments exceeding all recent estimates of the indirect costs associated with graduate medical education. We strongly believe that payment for the added costs associated with graduate medical education should be based on the best estimate of the added costs incurred in treating Medicare patients and that payment in excess of this amount is an inappropriate expenditure of Medicare trust funds.

In addition, it must be noted that teaching hospitals continue to have much higher Medicare operating margins than nonteaching hospitals. In FY 1988, the most recent year for which complete data are available, major teaching hospitals (that is, those with resident-to-bed ratios greater than or equal to .25) had an average Medicare operating margin of 12.4 percent, while nonteaching hospitals had a Medicare operating margin of negative 1.7 percent. The national average Medicare operating margin was 2.2 percent, and minor teaching hospitals (that is, those with a resident-to-bed ratio of less than .25) had an average Medicare operating margin of 3.7 percent.

ProPAC's reason for reducing the adjustment only to 7.0 percent in FY 1992 is that major teaching hospitals have had lower total operating margins (which are based on the facility's overall operations, not just Medicare patients)

than other types of hospitals. These lower total operating margins are associated with the fact that major teaching hospitals tend to be faced with a broad array of social issues not directly related to Medicare patients, stemming largely from their location in urban areas and their role in providing services to low-income individuals. ProPAC's concern is that a reduction greater than 7.0 percent might impair the continued operation of these hospitals and, thus, the fulfillment of their special role in the health care system.

While we share ProPAC's view that teaching hospitals fulfill a unique health care role, we disagree with the conclusion that the IME adjustment should be decreased only marginally in order to help offset losses in other areas of the operations of teaching hospitals. First, teaching hospitals have successfully responded to the incentives of the prospective payment system in the past, and we believe that they will continue to do so. In addition, social problems that are not directly related to Medicare beneficiaries should be addressed through more targeted policies rather than through indirect subsidies in the form of higher Medicare payments to all teaching hospitals. In this regard, we note that in ProPAC's discussion of uncompensated care at the end of the recommendations section, ProPAC indicated that it found no relationship between the amount of uncompensated care a hospital provides and the IME payments it receives. (Specifically, ProPAC found that although the top 10 percent of prospective payment hospitals in terms of uncompensated care load provide 27 percent of all uncompensated care, these hospitals together receive the same proportion of total IME payments (9 percent) as do the prospective payment hospitals ranking in the bottom 10 percent of uncompensated care load, which provide only 1 percent of all uncompensated care.) The Deputy Secretary's Task Force on the Uninsured is examining more appropriate ways to address some of these larger social issues.

The President's budget for FY 1992 also recommends that the measure of teaching intensity be changed, on a budget neutral basis, from a resident-to-bed ratio to a resident-to-average daily census (or resident-to-day) ratio. This change is based on our belief that the use of beds in the measurement of teaching intensity presents hospitals an opportunity to receive higher Medicare payments per case simply by taking unused beds out of service. It is highly unlikely that the closing of unused beds

should increase the impact of teaching activities on operating costs.

D. Outpatient Facility Services Payment Reform Recommendations 7 and 8)

Recommendation: ProPAC believes that a prospective payment system for outpatient services should be developed. Outpatient facility payment reform should ultimately include all providers of outpatient services (such as hospitals, physicians' offices, and free-standing ambulatory surgery centers). However, the Commission recognizes that, as required by Congress, outpatient payment reform will focus initially on the hospital outpatient setting. In addition, outpatient payment reform for facility services should have incentives that are consistent with physician payment reform. Medicare financial incentives should not lead physicians or beneficiaries to inappropriately select one site of care over another.

Response: We agree with ProPAC's recommendations. Although we are working to develop a prospective payment system for hospital outpatient services, it may make sense to extend that system at some point to other settings where the same services are performed. We also agree that outpatient payment reform should contain incentives that are consistent with those of physician payment reform and should not provide incentives that would favor one site of care over another. As we continue our work on developing a prospective payment system for hospital outpatient services, we will take these recommendations into consideration.

E. Data Collection and Coding Requirements (Recommendation 9)

Recommendation: Uniform coding and billing requirements should be implemented for all providers of outpatient care. These requirements should apply to the hospital outpatient setting, physicians' offices, and free-standing ambulatory care providers. In addition, a mechanism for periodic collection of procedure-specific cost data in free-standing settings (including physicians' offices and ambulatory surgery centers) should be implemented.

Response: We agree in principle with ProPAC's recommendation. Both uniform coding and billing requirements and a systematic cost data collection mechanism are prerequisites for a prospective payment system that would be applicable across all outpatient settings. However, in practice, there are several problems involved in the implementation of this recommendation.

First, it should be understood that there are two categories of codes to

which the recommendations applies, diagnosis coding and procedure coding. HCFA uses the ICD-9-CM coding system for reporting diagnosis and inpatient hospital procedures and the CPT-4 coding system for reporting ambulatory services. A major problem in implementing ProPAC's recommendation is the lack of standardization between the two coding systems, which are managed by separate entities.

As discussed in section II.B.10 of this preamble, HCFA plays a major role in the development of ICD-9-CM coding guidelines, since the ICD-9-CM system is controlled by two Federal agencies, NCHS and HCFA. We have made significant progress in standardizing the way in which ICD-9-CM codes are used. HCFA and the NCHS work closely with AHA and AMRA in developing the ICD-9-CM coding guidelines.

The CPT-4 coding system is owned and managed by the American Medical Association (AMA). Although HCFA participates as one of 12 voting members of the panel that creates CPT-4 codes, we have no control over either the creation of the codes or the AMA's coding guidelines. We are continuing to encourage the AMA to strive toward a more systematic coding system.

Another problem inherent in the use of the CPT-4 coding system is that it was designed specifically for reporting physician services. Ambulatory services provided by nonphysician practitioners, such as physical and occupational therapists, speech pathologists and audiologists, optometrists, and nurse practitioners are not always included in the CPT-4 system. The lack of a single coding system that is used by all providers of ambulatory services makes comparisons of services across all outpatient settings difficult. We recommend that the procedure coding system that we ultimately adopt be uniform and contain codes for all types of providers and practitioners to make possible standardized procedure coding and billing across all ambulatory settings.

With respect to ProPAC's recommendation regarding cost data collection, we agree that a more systematic and comprehensive method is needed for collecting nonhospital cost data for rate-setting purposes, and we have begun to examine the design of such a method. A data collection system should employ a sample from all outpatient settings and take into account surgical and medical specialty, volume of procedures, and case mix. Critical elements of such a data collection system will be the definition of a unit of

service that is comparable across all service sites and the universal use by both providers and fiscal intermediaries of a unique provider identification number. Verification of the data by audit is essential, as is the establishment of quality of care measurements to assure that the quality of service is reasonably comparable across care settings. Policies will also need to be developed to determine payment for services and procedures when there are insufficient cost data available to set payment rates.

In conclusion, we support ProPAC's recommendation regarding uniform coding requirements and the need for periodic cost data collection. We will continue to explore possible mechanisms for achieving these ends.

F. Medicare Volume Performance Standards (Recommendation 10)

Recommendation: Services provided in the hospital outpatient setting should be included in the Medicare Physician Volume Performance Standards (MVPS). Certain services (such as laboratory tests and therapy services) are currently included in the MVPS when provided in free-standing settings. Other services (including ambulatory surgery and durable medical equipment) are excluded. The Commission believes that outpatient hospital-provided services should also be incorporated in the MVPS to the extent that these services are included when provided in other settings.

Response: Many diagnostic services, such as diagnostic x-ray and diagnostic laboratory tests, are furnished in outpatient departments of hospitals. Except for medically necessary physician interpretations of the tests, these hospital tests are not paid on a fee schedule basis by carriers, but, rather, are paid by intermediaries. Much of the detailed information needed to set performance standard rates of increase is not available for diagnostic services furnished by a hospital. The data are included in hospital cost reports and are not readily available under current data collection systems. As data systems evolve in response to setting physician performance standard rates of increase, we may consider including diagnostic x-ray, laboratory, and other services furnished in hospital outpatient departments in setting future performance standard rates of increase.

VI. Other Required Information

A. Paperwork Reduction Act

This proposed rule does not impose information collection requirements. However, completion of the UB-82

billing form (the billing form used for Medicare discharges), as discussed in section II.B.11 of this preamble, requires information collection that is subject to review by the Office of Management and Budget (OMB) under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511). The current information collection requirements associated with the UB-82 billing form have been approved through April 30, 1992 under OMB number 0938-0279.

In this document, we are announcing changes to the UB-82 billing form that result in an increase in the number of fields for diagnosis and procedure codes that may be completed. (In the May 9, 1990 proposed rule (55 FR 19459) we announced our intention to expand the UB-82 billing form to 10 diagnosis fields and 10 procedure code fields. The current UB-82 billing form limits these fields to five diagnosis and three procedure codes. After consideration of public comment and further analysis, we have decided to expand the UB-82 billing form to include nine diagnosis fields and six procedure code fields effective for discharges occurring on or after October 1, 1991.) However, these requirements will not be effective until OMB approval is received.

There are approximately 10 million Medicare inpatient hospital claims filed every year. Of that number, we estimate that approximately 86 percent of the claims are completed with the current five diagnosis codes and approximately 87 percent of the claims are completed with the current three procedure codes. Thus, we estimate that no more than 27 percent of the claims (if there is no overlap between these two sets) and possibly as few as 14 percent of the claims will require additional coding.

Because the prospective payment system requires the coding of the principal diagnosis and because the coding of certain secondary diagnoses results in assignment of the claim to a higher-weighted DRG, medical record technicians and coders should already be reviewing the entire medical record and collecting all diagnosis codes (using the Uniform Hospital Discharge Data Set (UHDDS) definitions and instructions) to result in the correct DRG assignment. Also, because there is a hierarchy that assigns a surgical claim to a DRG based on the most resource-intensive procedure, the technicians and coders must also review the entire record and collect all procedures. Thus, we estimate that these expanded reporting fields should not result in any additional collection activities. However, they will result in a minimal amount of time necessary to record the additional codes; we estimate that this

will be less than 1 minute per claim. We believe that this additional time will be more than offset by the time saved due to the fact that, for the vast majority of claims, the coders and technicians will no longer be required to make any decisions concerning which diagnoses and procedures to code to ensure correct DRG assignment because there will be adequate room to include all codes.

The information collection and recordkeeping requirements associated with the expanded reporting fields in the UB-82 billing form will be sent to OMB for review under 44 U.S.C. 3501-3511. Organizations and individuals desiring to submit comments concerning these information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the "ADDRESSES" section of this preamble.

B. Requests for Data from the Public

In order to respond promptly to public requests for data related to the prospective payment system, we have set up a process under which commenters can gain access to the raw data on an expedited basis. Generally, the data are available in computer tape format; however, some files are available on diskette. Data sets are listed below with the cost of each. Anyone wishing to purchase data tapes should submit a written request along with a certified check or money order (payable to HCFA) to cover the cost of the tapes or diskettes to the following address: HCFA Office of Statistics and Data Management, Bureau of Data Management and Strategy, Room 3-A-12 Security Office Park Building, 6325 Security Boulevard, Baltimore, MD 21207.

1. Expanded Modified MEDPAR File

The file contains records for 100 percent of Medicare beneficiaries using hospital inpatient services. The file is stripped of most data elements that would identify beneficiaries. The hospitals are identified. The file is available to persons qualifying under the terms of the Notice of Proposed New Routine Use for an Existing System of Records published in the Federal Register on December 24, 1984 (49 FR 49941), which was amended by the July 22, 1985 Notice of Proposed New Routine Use for an Existing System of Records (50 FR 27361). Under the requirements of these notices, a data release agreement must be signed by the purchaser before release of these data.

Expanded Modified MEDPAR—Hospital Inpatient
Periods Available: FY 1984 through FY 1989

Price: \$2,870.00 per fiscal year

2. HCFA Hospital Wage Index Survey

This tape contains three files. Included are the hospital hours and salaries for 1988 used to create the wage indexes used in the Medicare Hospital Prospective Payment System (PPS) as well as all wage indexes used since October 1, 1983. It also contains a list of State and county codes used by SSA and FIPS (Federal Information Processing Standards), county name, and Metropolitan Statistical Area (MSA), since October 1, 1983.

Periods Available: FY 1992 PPS Update
File Cost: \$440.00

3. H180 Extract, Cost Reporting Periods Ending January 1, 1982 Through September 29, 1983

The H180 Extract contains cost, statistical, financial, and other information from the Medicare Hospital Cost Report (HCFA Form 2552-81). The data set includes as submitted, final settled and reopened cost reports as they were received from the Medicare Fiscal Intermediary. There is a single record for each Medicare Cost Report submitted for a Medicare Certified Hospital by the Medicare Fiscal Intermediary. This file is no longer updated.

Price: \$630.00

4. TEFRA Minimum Data Set, Cost Reporting Periods Beginning On or After October 1, 1982 and Before October 1, 1983

The TEFRA Minimum Data Set contains cost, statistical, financial, and other information from the Medicare Hospital Cost Report (HCFA Form 2552-83) for the Hospital Fiscal Periods beginning on or after October 1, 1982 and before October 1, 1983. This dataset includes capital-related cost (fixed/moveable) information used in the early analyses of prospective capital payment. The majority of these cost reports have been settled by the Medicare Fiscal Intermediary. This file is no longer updated.

Price: \$630.00

5. PPS-I Minimum Data Set, Cost Reporting Periods Beginning On or After October 1, 1983 and Before October 1, 1984

The PPS-I Minimum Data Set contains cost, statistical, financial, and other information from the Medicare hospital cost report (HCFA Form 2552-84). The dataset includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare Certified Hospital by the Medicare

Fiscal Intermediary to HCFA. The majority of these cost reports have been settled by the Medicare Fiscal Intermediary. This file is no longer updated.

Price: \$630.00

6. PPS-II Minimum Data Set, Cost Reporting Periods Beginning On or After October 1, 1984 and Before October 1, 1985

The PPS-II Minimum Data Set contains cost, statistical, financial, and other information from the Medicare hospital cost report (HCFA Form 2552-85). The dataset includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare Certified Hospital by the Medicare Fiscal Intermediary to HCFA. This dataset is updated by the 15th day of each calendar quarter and is available on the first day of the following month.

Price: \$630.00

7. PPS-III Minimum Data Set, Cost Reporting Periods Beginning On or After October 1, 1985 and Before October 1, 1986

The PPS-III Minimum Data Set contains cost, statistical, financial, and other information from the Medicare hospital cost report (HCFA Form 2552-85). The dataset includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare Certified Hospital by the Medicare Fiscal Intermediary to HCFA. This dataset is updated by the 15th day of each calendar quarter and is available on the first day of the following month.

Price: \$630.00

8. PPS-IV Minimum Data Set, Cost Reporting Periods Beginning On or After October 1, 1986 and Before October 1, 1987

The PPS-IV Minimum Data Set, contains cost, statistical, financial, and other information from the Medicare hospital cost report (HCFA Form 2552-85). The dataset includes only the most current cost report (as submitted, final settled or reopened submitted for a Medicare Fiscal Intermediary to HCFA. This dataset is updated by the 15th day of each calendar quarter and is available on the first day of the following month.

Price: \$630.00

9. PPS-V Minimum Data Set, Cost Reporting Periods Beginning On or After October 1, 1987 and Before October 1, 1988

The PPS-V Minimum Data Set, contains cost, statistical, financial, and other information from the Medicare hospital cost report (HCFA Form 2552-85). The dataset includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare Fiscal Intermediary to HCFA. This dataset is updated by the 15th day of each calendar quarter and is available on the first day of the following month.

Price: \$630.00

10. PPS-VI Minimum Data Set

The PPS-VI Minimum Data Set contains cost, statistical, financial, and other information from the Medicare Hospital Cost Report (Form HCFA 2552-85 (Hospital Fiscal Periods beginning on or after October 1, 1988 and before January 1, 1989) and Form HCFA 2552-89 (Hospital Fiscal Periods beginning on or after January 1, 1989)). The dataset includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare Certified Hospital by the Medicare Fiscal Intermediary to HCFA. This dataset is updated by the 15th day of each calendar quarter and is available on the first day of the following month.

Price: \$630.00

11. Capital Regulations File

This file was developed from PPS year V hospital cost report data. The file contains capital-related costs in total and after reclassifications and adjustments under Medicare principles of reimbursement. These costs combine depreciation, rent, interest, real estate taxes, insurance and other similar expenses. The file includes balance sheet data and other pertinent information. This file is updated by the 15th day of each calendar quarter and is available on the first day of the following month.

Price: \$630.00

12. Provider-Specific File

This file is a component of the PRICER program used in an intermediary's system to compute individual DRG payments. The file contains records for all prospective payment system eligible hospitals, including hospitals in waiver States, and data elements used in the prospective payment system recalibration process and related activities. Beginning with December 1988, the individual records

were enlarged to include pass-through per diems and other elements.

Periods Available: December 1987, 1988, 1989, and 1990 updates
Price: \$440.00

13. HCFA Medicare Case-Mix Index File (3½" Diskette)

This file contains the hospital provider number and the Medicare case-mix index as published in each year's update of the Medicare Hospital Prospective Payment System. The case-mix index is a measure of the costliness of cases treated by a hospital relative to the cost of the national average of all Medicare hospital cases, using DRG weights as a measure of relative costliness of cases.

Periods Available: FY 1985 through FY 1990
Price: \$120.00

14. Table 5 DRG (3½" Diskette)

This file contains a listing of DRGs, DRG narrative description, relative weight, geometric mean, length of stay, and day outlier trim points as published in the **Federal Register**.

Periods Available: FY 1992
Price: \$120.00

15. AOR/BOR File (3½" Diskette)

This diskette contains data used to develop the DRG relative weights. It contains mean, maximum, minimum, standard deviation and coefficient of variation statistics by DRG for length of stay and standardized charges. The BOR tables are "Before Outliers Removed" and the AOR is "After Outliers Removed." (This refers to statistical outliers, not payment outliers.)

Periods Available: FY 1992
Price: \$120.00

For further information concerning these data tapes, contact Rose Connerton at (301) 597-5151.

In addition, certain other data, such as area wage data and data used to construct the Puerto Rico standardized amounts, are available in hard copy format. Commenters interested in examining hard copy data should contact Lana Price at (301) 966-4534.

We realize that commenters may be interested in obtaining data other than those we have discussed above. These commenters should direct their requests to Lana Price at the number provided above.

Finally, in lieu of obtaining data through the mail, certain data may also be available for inspection at the central office of the Health Care Financing Administration in Baltimore, Maryland. Commenter interested in obtaining more information about this alternative for

reviewing data should also contact Lana Price.

C. Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments concerning the provisions of this proposed rule that we receive by the date and time specified in the "Dates" section of this preamble and respond to those comments in the preamble to that rule. We emphasize that, given the statutory requirement under section 1886(e)(5) of the Act that our final rule for FY 1991 be published by September 1, 1990, we will consider only those comments that deal specifically with the matters discussed in this proposed rule.

List of Subjects

42 CFR Part 412

Health Facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter B—Medicare Program

I. Part 412 is amended as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

A. The authority citation for part 412 continues to read as follows:

Authority: Secs. 1102, 1815(e), 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395g(e), 1395hh, and 1395ww).

B. Subpart B is amended as follows:

Subpart B—Hospital Services Subject to and Excluded from the Prospective Payment System

1. In § 412.23, the introductory text of paragraph (b) is republished and a new paragraph (b)(9) is added to read as follows:

§ 412.23 Excluded hospitals: Classifications.

* * * * *

(b) Rehabilitation hospitals.

A rehabilitation hospital must meet the following requirements:

* * * * *

(9) If a hospital is excluded from the prospective payment system for a cost reporting period under paragraph (b)(8) of this section, but the inpatient

population it actually treated during that period does not meet the requirements of paragraph (b)(2) of this section, HCFA adjusts payments to the hospital retroactively in accordance with the provisions in § 412.130 of this part.

* * * * *

2. In § 412.30, a new paragraph (c) is added to read as follows:

§ 412.30 Exclusion of new distinct part rehabilitation units and expansion of units already excluded.

* * * * *

(c) *Retroactive adjustments for certain units.* If a hospital has a new rehabilitation unit excluded from the prospective payment system for a cost reporting period under paragraph (a) of this section or expands an existing rehabilitation unit under paragraph (b) of this section, but the inpatient population actually treated in the new unit or the beds added to the existing unit during that cost reporting period does not meet the requirements in § 412.23(b)(2), HCFA adjusts payments to the hospital retroactively in accordance with the provisions in § 412.130 of this part.

C. Subpart H is amended as follows:

Subpart H—Payments to Hospitals Under the Prospective Payment System

1. In § 412.118, paragraph (c) is revised; paragraphs (d)(1) introductory text and (d)(1)(i) through (d)(1)(iii) are redesignated as paragraphs (d) introductory text and (d)(1) through (d)(3), respectively; and paragraph (d)(2) is removed to read as follows:

§ 412.118 Determination of indirect medical education adjustment.

* * * * *

(c) *Measurement for teaching activity.* The factor representing the effect of teaching activity on inpatient operating costs equals .405 for discharges occurring on or after May 1, 1986.

* * * * *

2. A new § 412.130 is added to read as follows:

§ 412.130 Retroactive adjustments for incorrectly excluded hospitals and distinct part units.

(a) *Hospitals for which adjustment is made.* The intermediary makes the payment adjustment described in paragraph (b) of this section for the following hospitals:

(1) A hospital that was excluded from the prospective payment system as a new rehabilitation hospital for a cost reporting period based on a certification under § 412.23(b)(8) regarding the

inpatient population the hospital planned to treat during that cost reporting period, if the inpatient population actually treated in the hospital during that cost reporting period did not meet the requirements of § 412.23(b)(2).

(2) A hospital that had a distinct part unit excluded from the prospective payment system as a new rehabilitation unit for a cost reporting period based on a certification under § 412.30(a) regarding the inpatient population the hospital planned to treat in that unit during that period, if the inpatient population actually treated in the unit during that cost reporting period did not meet the requirements of § 412.23(b)(2).

(3) A hospital that added new beds to its existing distinct part rehabilitation unit for a cost reporting period based on a certification under § 412.30(b) regarding the inpatient population the hospital planned to treat in these new beds during that cost reporting period, if the inpatient population actually treated in the new beds during that cost reporting period did not meet the requirements of § 412.30(b)(2).

(b) *Adjustment of payment.* The intermediary adjusts the payment to the hospitals described in paragraph (a) of this section as follows:

(1) The intermediary calculates the difference between the amounts actually paid during the cost reporting period for which the hospital, unit, or beds were first excluded as a new hospital, new unit, or newly added beds, and the amount that would have been paid under the prospective payment system for those services.

(2) The intermediary makes a retroactive adjustment for the difference between the amount paid to the hospital based on the exclusion and the amount that should have been paid under the prospective payment system.

II. Part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for part 413 continues to read as follows:

Authority: Sec. 1102, 1814(b), 1815, 1833 (a) and (i), 1861(v), 1871, 1881, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395g, 1395i (a) and (i), 1395x(v), 1395hh, 1395rr, and 1395ww) and sec. 104(c) of Public Law 100-360 as amended by sec. 608(d)(3) of Public Law 100-485 (42 U.S.C. 1305ww (note)) and sec. 101(c) of Public Law 101-234 (42 U.S.C. 1305ww (note)).

B. In Subpart C, § 413.40, paragraphs (c)(1)(ii) and (d)(3)(ii) are revised; new

paragraph (d)(3)(iii) is added; paragraphs (e) and (g) are revised; paragraph (h) is removed; paragraphs (i) and (j) are redesignated as paragraph (h) and (i), respectively; redesignated paragraph (i)(1)(i) is amended by revising the introductory text of paragraph (i)(1)(i) and paragraphs (i)(1)(i)(B) and (i)(1)(i)(C); and redesignated paragraph (i)(1)(ii) is revised to read as follows:

Subpart C—Limits on Cost Reimbursement

§ 413.40 Ceiling on rate of hospital cost increases.

(c) *Procedure for establishing the ceiling (target amount).*

(1) *Costs subject to the ceiling.* * * *

(ii) For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, these operating costs include operating costs of routine services (as described in § 413.53(b)), ancillary service operating costs, and special care unit operating costs. These operating costs exclude the costs of malpractice insurance, certain kidney acquisition costs, capital-related costs, the Medicare inpatient routine nursing salary cost differential, and costs a hospital allocates to approved medical education programs (nursing school or approved intern and resident programs) on its Medicare cost report.

(d) *Application of target amounts in determining reimbursement.* * * *

(3) *Inpatient operating costs are greater than the target amount.*

(ii) For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1991, payment will be based on the hospital's target amount per case.

(iii) For cost reporting periods beginning on or after October 1, 1991, payment will be based on the lower of the hospital's—

(A) Target amount plus 50 percent of the allowable operating costs per case in excess of the target amount; or

(B) 110 percent of the target amount per case.

(e) *Hospital requests regarding applicability of the rate-of-increase ceiling.*

(1) A hospital may request an exemption from, or adjustment to, the rate of cost increase ceiling imposed under this section. The hospital's request must be made to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement.

(2) Unless HCFA has authorized the intermediary to make the decision, the

intermediary makes a recommendation on the hospital's request to HCFA, which makes the decision. HCFA issues a decision to the intermediary within 180 days from the date it receives the completed application and the intermediary's recommendation.

(3) If HCFA has authorized the intermediary to make the decision, the intermediary issues a decision within 180 days of receiving the completed application.

(4) The intermediary notifies the hospital of the decision. A decision issued under paragraphs (e)(2) or (e)(3) of this section is considered final unless the hospital submits additional information within 90 days of the date the intermediary notifies the hospital of the decision. The final decision is subject to review under subpart R of part 405 of this chapter.

(5) The time required to review the request is considered good cause for the granting of an extension of the time limit to apply for review of the notice of amount of program reimbursement by the Provider Reimbursement Review Board, as specified in § 405.1841(b) of this chapter.

(g) *Adjustments.* (1) *General rule.* HCFA may adjust the amount of the operating costs considered in establishing cost per case for one or more cost reporting periods, including both periods subject to the ceiling and the hospital's base period, under the circumstances specified below. HCFA makes an adjustment only to the extent that the hospital's operating costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary. HCFA may grant an adjustment only if a hospital's operating costs exceed the rate of increase ceiling imposed under this section.

(2) *Extraordinary circumstances.* HCFA may make an adjustment to take into account unusual costs (in either a cost reporting period subject to the ceiling or the hospital's base period) due to extraordinary circumstances beyond the hospital's control. These circumstances include, but are not limited to, strikes, fire, earthquakes, floods, or similar unusual occurrences with substantial cost effects.

(3) *Comparability of cost reporting periods.* HCFA may make an adjustment to take into account factors that would result in a significant distortion in the operating costs of inpatient hospital services between the base year and the cost reporting period subject to the limits. The adjustments include, but are

not limited to, adjustments to take into account:

(i) FICA taxes (if the hospital did not incur costs for FICA taxes in its base period).

(ii) Services billed under Part B of Medicare during the base period, but paid under Part A during the subject cost reporting period.

(iii) Malpractice insurance costs (if malpractice costs were not included in the base year operating costs).

(iv) Increases in service intensity or length of stay attributable to changes in the type of patient served.

(v) A change in the inpatient hospital services that a hospital provides, and that are customarily provided directly by similar hospitals, such as an addition or discontinuation of services or treatment programs.

(vi) The manipulation of discharges to increase reimbursement.

(4) *Significant wage increase.* (i) *Criteria.* HCFA may make an adjustment to take into account a significant increase in wages occurring between the base period and the cost reporting period subject to the ceiling if the increase in the average hourly wage for the geographic area in which the hospital is located (determined by reference to the wage index for prospective payment hospitals without regard to geographic reclassifications under sections 1886(d) (8) and (10) of the Act meets one of the following criteria:

(A) The wage index value based on 1988 wage data is at least 8.0 percent higher than the wage index value based on 1982 wage data.

(B) If the hospital's base period begins in FY 1984 or later, the wage index value based on 1988 wage data is at least 8.0 percent higher than the wage index value based on 1984 wage data.

(ii) *Amount of the adjustment.* The adjustment for a significant wage increase equals the amount by which the lesser of the following calculations is 8 percent higher than the rate of increase in the national average hourly earnings for hospital workers:

(A) The rate of increase in the average hourly wage in the geographic area (determined by applying the applicable increase in the area wage index value to the rate of increase in the national average hourly earnings for hospital workers).

(B) The rate of increase in the hospital's average hourly wage.

(i) *Assignment of a new base period.*

(1) *General rule.* (i) Effective with cost reporting periods beginning on or after April 1, 1990, HCFA may assign a new base period to establish a revised ceiling

if the new base period is more representative of the reasonable and necessary cost of furnishing inpatient services and all the following conditions apply:

(B) The hospital documents that the higher costs are the result of substantial and permanent changes in furnishing patient care services since the base period. In making this determination, HCFA takes into consideration the following factors:

(1) Changes in the services provided by the hospital.

(2) Changes in applicable technologies and medical practices.

(3) Differences in the severity of illness among patients or types of patients served.

(C) The adjustments described in paragraph (g) of this section would not result in recognition of the reasonable and necessary costs of providing inpatient services.

(ii) The revised ceiling is based on the necessary and proper costs incurred during the new base period.

(A) Increases in overhead costs (for example, administrative and general costs and housekeeping costs) are not taken into consideration unless the hospital documents that these increases result from substantial and permanent changes in furnishing patient care services.

(B) In determining whether wage increases are necessary and proper, HCFA takes into consideration whether increases in wages and wage-related costs for hospitals in the labor market area exceed the national average increase.

C. In Supart F, § 413.86, the introductory text of paragraph (b) is republished and the definition "Approved medical residency program" is amended by republishing the introductory text and revising (2) to read as follows:

Subpart F—Specific Categories of Costs

§ 413.86 Direct graduate medical education payments.

(b) *Definitions.* For purposes of this section, the following definitions apply:

"Approved medical residency program" means a program that meets one of the following criteria:

(2) May count towards certification of the participant in a specialty or

subspecialty listed in the current edition of either of the following publications:

(i) The *Directory of Graduate Medical Education Programs* published by the American Medical Association, and available from American Medical Association, Department of Directories and Publications, 515 North State Street, Chicago, Illinois 60610; or

(ii) The *Annual Report and Reference Handbook* published by the American Board of Medical Specialties, and available from American Board of Medical Specialties, One Rotary Center—Suite 805, Evanston, Illinois 60201.

C. Subpart G is amended as follows:

Subpart G—Capital-Related Costs

1. In § 413.134, paragraph (e) is revised to read as follows:

§ 413.134 Depreciation: Allowance for depreciation based on asset costs.

(e) *Funding of depreciation.* Although funding of depreciation is not required, it is strongly recommended that providers use this mechanism as a means of conserving funds for replacement of depreciable assets, and that they coordinate their planning of capital expenditures with areawide planning activities of community and State agencies.

(1) *Incentive.* As an incentive for funding, investment income on funded depreciation is not treated as a reduction of allowable interest expense.

(2) *When considered available.* HCFA considers funded depreciation available for use in the acquisition or replacement of depreciable assets relating to patient care unless the funded depreciation funds have been committed by contract for the acquisition of depreciable assets related to the furnishing of patient care or for other capital purposes related to patient care.

(3) *Proper withdrawals of funded depreciation.* (1) *Proper withdrawals.* (A) Withdrawals from funded depreciation are considered proper if made either for investments or for the acquisition of depreciable assets related to the furnishing of patient care or for other capital purposes related to patient care.

(B) Proper withdrawals from funded depreciation are made on a first-in, first-out basis.

(C) *Exception.* If HCFA determines that a borrowing is unnecessary because of the existence of available funded depreciation, any withdrawals made after the date of the borrowing are

deemed to be made on a last-in, first-out basis.

(ii) *Improper withdrawals.* (A) Withdrawals from funded depreciation that do not meet the requirements for proper withdrawals under the provisions in paragraph (e)(3)(i)(A) of this section are considered improper withdrawals.

(B) Improper withdrawals from funded depreciation are made on a last-in, first-out basis.

2. In § 413.153, the introductory text in paragraph (a)(2) is republished and paragraph (a)(2)(iii) is revised to read as follows:

§ 413.153 Interest expense

(a)(1) *Principle.* * * *

(2) *Necessary.* Necessary requires that the interest be—

(iii) Reduced by investment income except if such income is from gifts and grants, whether restricted or unrestricted, and that are held separate and not commingled with other funds. Income from funded depreciation that meets the requirements of § 413.134 or a provider's qualified pension fund is not used to reduce interest expense. Interest received as a result of judicial review by a Federal court (as described in § 413.64(j)) is not used to reduce interest expense.

(Catalog of Federal Domestic Assistance Programs No. 93.733, Medicare—Hospital Insurance; No. 93.744, Medicare—Supplementary Medicare Insurance)
Dated: April 24, 1991.

Gail R. Wilensky,
Administrator, Health Care Financing
Administration.

Approved: May 13, 1991.

Louis W. Sullivan,
Secretary.

[Editorial Note: The following addendum and appendixes will not appear in the Code of Federal Regulations.]

Addendum—Proposed Schedule of Standardized Amounts Effective with Discharges On or After October 1, 1991 and Update Factors and Target Rate Percentages Effective With Cost Reporting Periods Beginning On or After October 1, 1991

I. Summary and Background

In this addendum, we are making changes in the amounts and factors for determining prospective payment rates for Medicare inpatient hospital services. We are also setting forth new target rate percentages for determining the rate-of-increase limits (target amounts) for hospitals and hospital units excluded from the prospective payment system.

For discharges occurring on or after October 1, 1991, except for sole community hospitals, Medicare-dependent small rural hospitals, hospitals located in Puerto Rico, and hospitals subject to the regional floor, each hospital's payment per discharge under the prospective payment system will be comprised of 100 percent of the Federal national rate.

For cost reporting periods beginning on or after April 1, 1990, sole community hospitals and Medicare-dependent small rural hospitals are paid based on whichever of the following rate yields the greatest aggregate payment: the Federal national rate (subject to the regional floor), the updated hospital-specific rate based on FY 1982 cost per discharge, or the updated hospital-specific rate based on FY 1987 cost per discharge. Hospitals in Puerto Rico are paid on the basis of a rate per discharge composed of 75 percent of a Puerto Rico rate and 25 percent of a national rate (section 1886(d)(9)(A) of the Act). Hospitals affected by the regional floor are paid on the basis of 85 percent of the Federal national rate and 15 percent of the Federal regional rate (section 1886(d)(1)(A)(iii) of the Act).

As discussed below in section II, we are making changes in the determination of the prospective payment rates. The changes, to be applied prospectively, will affect the calculation of the Federal rates. Section III sets forth our changes for determining the rate-of-increase limits for hospitals excluded from the prospective payment system. The tables to which we refer in the preamble to the proposed rule are presented at the end of this addendum in section IV.

II. Changes to Prospective Payment Rates For Hospitals for FY 1992

The basic methodology for determining prospective payment rates is set forth at § 412.63 for hospitals located outside of Puerto Rico. The basic methodology for determining the prospective payment rates for hospitals located in Puerto Rico is set forth at §§ 412.210 and 412.212. Below we discuss the manner in which we are changing some of the factors used for determining the prospective payment rates. The Federal and Puerto Rico rate changes, once issued as final, will be effective with discharges occurring on or after October 1, 1991. As required by section 1886(d)(4)(C) of the Act, we must adjust the DRG classifications and weighting factors for discharges in FY 1992.

In summary, the proposed standardized amounts set forth in tables 1a, 1b, and 1c of section IV of this addendum were—

- Updated by 2.2 percent for urban hospitals (that is, the market basket percentage increase of 3.8 percent minus 1.6 percent); and 3.2 percent for rural hospitals (that is, the market basket percentage increase of 3.8 percent minus 0.6 percent);

- Adjusted by the revised urban and rural outlier offsets;

- Adjusted to ensure budget neutrality as provided for in section (d)(8)(D) of the Act; and

- Adjusted to ensure budget neutrality as provided for in sections 1886(d)(4)(C)(iii) and (d)(3)(E) of the Act.

A. Calculation of Adjusted Standardized Amounts

1. Standardization of Base-Year Costs or Target Amounts

Section 1886(d)(2)(A) of the Act required the establishment of base-year cost data containing allowable operating costs per discharge of inpatient hospital services for each hospital. The preamble to the September 1, 1983 interim final rule (48 FR 39763) contains a detailed explanation of how base-year cost data were established in the initial development of standardized amounts for the prospective payment system and how they are used in computing the Federal rates.

Section 1886(d)(9)(B)(i) of the Act required that Medicare target amounts be determined for each hospital located in Puerto Rico for its cost reporting period beginning in FY 1987. The September 1, 1987 final rule contains a detailed explanation of how the target amounts were determined and how they are used in computing the Puerto Rico rates (52 FR 33043, 33066).

The standardized amounts are based on per discharge averages of adjusted hospital costs from a base period or, for Puerto Rico, adjusted target amounts from a base period, updated and otherwise adjusted in accordance with the provisions of section 1886(d) of the Act. Sections 1886(d)(2)(C) and (d)(9)(B)(ii) of the Act required that the updated base-year per discharge costs and, for Puerto Rico, the updated target amounts, respectively, be standardized in order to remove from the cost data the effects of certain sources of variation in cost among hospitals. These include case mix, differences in area wage levels, cost of living adjustments for Alaska and Hawaii, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients.

Since the standardized amounts have already been adjusted for differences in

case mix, wages, cost-of-living, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients, no additional adjustments for these factors for FY 1992 were made. That is, the standardization adjustments reflected in the FY 1992 standardized amounts are the same as those reflected in the FY 1991 standardized amounts.

Sections 1886(d)(2)(H) and (d)(3)(E) of the Act require that, in making payments under the prospective payment system, the Secretary adjust the proportion of payments that are wage-related (as estimated by the Secretary from time to time). Beginning with October 1, 1990, when the market basket was rebased, we have considered 71.40 percent of costs to be labor-related for purposes of the prospective payment system.

2. Computing Urban and Rural Averages Within Geographic Areas

In determining the prospective payment rates for FY 1984, section 1886(d)(2)(D) of the Act required that the average standardized amounts be determined for hospitals located in urban and rural areas of the nine census divisions and the nation. Under section 1886(d)(9)(B)(iii) of the Act, the average standardized amount per discharge for FY 1988 must be determined for hospitals located in urban and rural areas in Puerto Rico. Hospitals in Puerto Rico are paid a blend of 75 percent of the applicable Puerto Rico standardized amount and 25 percent of a national standardized payment amount.

Section 4002(c)(1) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203) amended section 1886(d)(3) of the Act to require the Secretary to compute three average standardized amounts for discharges occurring in a fiscal year beginning on or after October 1, 1987: One for hospitals located in rural areas; one for hospitals located in large urban areas; and one for hospitals located in other urban areas. Section 4002(b) of Public Law 100-203 amended section 1886(d)(2)(D) of the Act to define a "large urban area" as an urban area with a population of more than 1,000,000. In addition, section 4009(i) of Public Law 100-203 provides that a New England County Metropolitan Area (NECMA) with a population of more than 970,000 is classified as a large urban area. As required by section 1886(d)(2)(D) of the Act, population size is determined by the Secretary based on the latest population data published by the Bureau of the Census. Under that section, urban areas that do not meet the definition of a "large urban area" are referred to as "other urban areas."

Based on 1989 census population estimates published by the Bureau of the Census, the current 46 large urban areas continue to meet the criteria to be defined as large urban areas for FY 1992. A list of those areas was set forth in the April 5, 1988 notice (at 53 FR 11138) concerning FY 1988 legislative changes that affect payment to hospitals. In addition, these areas are identified by an asterisk in tables 4a and 4c. No additional areas have been identified. Therefore, we are making no change in these areas for purposes of this proposed rule. If new population estimates are published by the Bureau of Census before we issue the final rule, we would include any resulting changes in the list of large urban areas in that rule.

Table 1a contains the three national standardized amounts that would continue to be applicable to most hospitals. Table 1b sets forth the 27 regional standardized amounts that would continue to be applicable for hospitals located in census areas subject to the regional floor. Under section 1886(d)(9)(A)(ii) of the Act, the national standardized payment amount applicable to hospitals in Puerto Rico consists of the discharge-weighted average of the national rural standardized amount, the national large urban standardized amount, and the national other urban standardized amount (as set forth in table 1a). The national average standardized amount for Puerto Rico is set forth in table 1c. This table also includes the three standardized amounts that would be applicable to most hospitals in Puerto Rico.

The methodology for computing the national average standardized amounts is identical to the methodology for determining the regional amounts.

The Office of Management and Budget (OMB) may announce revised listings of the MSA and NECMA designations that are used in calculating standardized amounts. If OMB makes an announcement before we issue the final rule, we will list the revised MSA/NECMA designations in the addendum to the final rule. Consistent with Medicare policy and our regulations at § 412.63(b)(4), the changes in designation will be effective for discharges occurring on or after October 1, 1991.

3. Updating the Average Standardized Amounts

In accordance with section 1886(d)(3)(A) of the Act, we are proposing to update the large urban, other urban, and rural average standardized amounts using the

applicable percentage increases specified in section 1886(b)(3)(B)(i). Section 1886(b)(3)(B)(i)(VII) (as added by sections 4002(a) and (c) of Public Law 101-508) specifies the following update factors for the standardized amounts for FY 1992:

- The market basket percentage increase minus 1.6 percentage points (that is, 2.2 percent) for hospitals located in urban areas.
- The market basket percentage increase minus 0.6 percentage points (that is, 3.2 percent) for hospitals located in rural areas.

The percentage change in the market basket reflects the average change in the price of goods and services purchased by hospitals to furnish inpatient care. The most recent forecasted hospital market basket increase for FY 1992 is 3.8 percent.

Although the update factor for FY 1992 is set by law, we were required by section 1886(e)(3)(B) of the Act to report to Congress no later than March 1, 1991 on our initial recommendation of update factors for FY 1992 for both prospective payment hospitals and hospitals excluded from the prospective payment system. For general information purposes, we have included the report to Congress as appendix C to this proposed rule. Our proposed recommendation on the update factors (which is required by sections 1886(e)(4)(A) and (e)(5)(A) of the Act), as well as our responses to ProPAC's recommendation concerning the update factor, is set forth as appendix D to this proposed rule.

4. Other Adjustments to the Average Standardized Amounts

a. Reclassified Hospitals—Budget Neutrality Adjustment. Section 1886(d)(8)(B) of the Act provides that certain rural hospitals are deemed urban effective with discharges occurring on or after October 1, 1988. In addition, section 1886(d)(10) of the Act provides for the reclassification of hospitals beginning in FY 1992 based on determinations by the Medicare Geographic Classification Review Board (MGCRRB). Under section 1886(d)(10) of the Act, a hospital may be reclassified for purposes of the standardized amount or the wage index, or both. (See section I.A.1 of the preamble for a further explanation.)

Section 1886(d)(8)(D) of the Act specifies two budget neutrality objectives that must be met. First, the FY 1992 urban standardized amounts are to be adjusted so as to ensure that total aggregate payments under the prospective payment system after implementation of the provisions of

sections 1886(d)(8) (B) and (C) and 1886(d)(10) of the Act are equal to the aggregate prospective payments that would have been made absent these provisions. Second, the rural standardized amounts are to be adjusted to ensure that aggregate payments to rural hospitals not affected by these provisions neither increase nor decrease as a result of implementation of these provisions. The following adjustment factors, necessary to achieve the requisite budget neutrality constraints, were applied to the proposed standardized amounts:

Urban	Rural
.988778	.999766

We note that these adjustments reflect wage index and standardized amount reclassifications approved by the MGCRB as of March 31, 1991. Approximately 500 cases were still pending before the MGCRB as of that date. The effects of any additional reclassifications approved by the MGCRB for FY 1992 will be reflected in the final budget neutrality adjustment required under section 1886(d)(8)(D) of the Act. We expect the additional reclassifications will result in a greater reduction in the urban standardized amounts in the final rule.

b. Recalibration of DRG Weights and Updated Wage Index—Budget Neutrality Adjustment. Section 1886(d)(4)(C)(iii) of the Act, as amended by section 6003(b) of Public Law 101-239, specifies that beginning in fiscal year 1991, the annual DRG reclassifications and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. As discussed in section II.C of the preamble, we normalized the recalibrated DRG weights by an adjustment factor so that the average case weight after recalibration is equal to the average case weight prior to recalibration. While this adjustment is intended to ensure that recalibration does not affect total payments to hospitals, our analysis indicates that the normalization adjustment does not necessarily achieve budget neutrality with respect to aggregate payments to hospitals.

Section 1886(d)(3)(E) of the Act, as amended by section 6003(h)(6) of Public Law 101-239, specifies that the hospital wage index must be updated based on new survey data no later than October 1, 1990 and on an annual basis beginning October 1, 1993. This provision also requires that any updates or

adjustments to the wage index must be made in a manner that ensures that aggregate payments to hospitals are not affected by the change in the wage index.

To comply with the requirement of section 1886(d)(4)(C)(iii) of the Act that the DRG reclassification changes and recalibration of the relative weights be budget neutral and the requirement in section 1886(d)(E) of the Act that the updated wage index be implemented in a budget neutral manner, we compared aggregate payments using the FY 1991 relative weights and the wage index effective January 1, 1991 to aggregate payments using the proposed FY 1992 relative weights and wage index. This was the same methodology used for the FY 1991 recalibration. (See discussion in September 4, 1990 final rule (55 FR 36073).) Based on this comparison, we computed a budget neutrality adjustment factor equal to 1.000018. We applied this budget neutrality adjustment factor to the standardized amounts.

In addition, we are proposing to continue to apply the same adjustment factor to the hospital-specific rates that are effective for cost reporting periods beginning on or after October 1, 1991, in order to ensure that we meet the statutory requirement that aggregate payments neither increase nor decrease as a result of the implementation of the DRG weights and updated wage index. (See discussion in September 4, 1990 final rule (55 FR 36073).)

c. Retroactive Budget Neutrality Adjustment to Reflect FY 1991 Midyear Wage Index Corrections. In the September 4, 1990 final rule (55 FR 36042), we set forth under § 412.63(1) our policy for making mid-year corrections in the wage index and applying those corrections on a prospective basis effective with discharges occurring after the date the corrections are made. As described in that rule, when mid-year corrections are made under the provisions of § 412.63(1), the correction in the wage index value for the affected area is effective prospectively from the date the revision is made; however, both the corresponding prospective adjustment to the wage index values for all other wage areas (to reflect the effect of the corrected data on the national average hourly wage), and the budget neutrality adjustment to the standardized amounts required by section 1886(d)(3)(E) (to account for the effect on payments of the mid-year corrections), are not made until the beginning of the next fiscal year.

To account for the effect that mid-year corrections in the wage index for FY 1991 had on program payments for that

year, we have computed a retroactive budget neutrality adjustment factor of .999676. This adjustment was computed by comparing FY 1991 aggregate payments before the wage data corrections were made with aggregate payments after the revised wage index values were implemented. This adjustment has been applied to the FY 1992 standardized amounts.

d. Outliers. Section 1886(d)(5)(A) of the Act requires that, in addition to the basic prospective payment rates, payments must be made for discharges involving day outliers and may be made for cost outliers. Section 1886(d)(3)(B) of the Act requires that the urban and rural standardized amounts be separately reduced by the proportion of estimated total DRG payments attributable to estimated outlier payments for hospitals located in urban areas and those located in rural areas. Section 1886(d)(9)(B)(iv) of the Act requires that the urban and rural standardized amounts be reduced by the proportion of estimated total payments made to hospitals in Puerto Rico attributable to estimated outlier payments.

Consequently, instead of a uniform reduction factor applying equally to all the standardized amounts, there are two separate reduction factors, one applicable to the urban national and regional standardized amounts and the other applicable to the rural national and regional standardized amounts. Furthermore, sections 1886(d)(5)(A)(iv) and 1886(d)(9)(D)(i) of the Act direct that outlier payments in any year may not be less than 5 percent nor more than 6 percent of total payments projected to be made based on the prospective payment rates.

In the September 4, 1990 final rule, we set the outlier thresholds so as to result in estimated outlier payments equal to 5.1 percent of total prospective payments. We also set the same outlier thresholds and offsets for the Puerto Rico prospective payment standardized amounts as we had for hospitals located outside Puerto Rico. For FY 1991, the day outlier threshold is the geometric mean length of stay for each DRG plus the lesser of 29 days or 3.0 standard deviations. The cost outlier threshold is the greater of 2.0 times the prospective payment rate for the DRG or \$35,000. In implementing the changes required by Pub. L. 101-508 in the January 7, 1991 final rule with comment period, we determined that maintaining the FY 1991 thresholds would result in estimated outlier payments equal to 5.2 percent of total prospective payments. Accordingly, we revised the adjustment factors to reflect the higher outlier

payments. The outlier adjustments for FY 1991 that were effective for discharges on or after January 1, 1991 were .944078 for the urban rates and .977448 for the rural rates.

As discussed in section IV.C of the preamble, we are proposing to establish outlier thresholds that would be applicable to both operating costs and capital-related costs. The proposed outlier adjustment factors applied to the standardized amounts and the capital Federal rate for FY 1992 are as follows:

Urban standardized amount	Rural standardized amount	Capital federal rate
.944309979808954854

We are proposing to continue to set the outlier thresholds so as to result in estimated outlier payments equal to 5.1 percent of total prospective payments. The model that we use to determine the outlier thresholds necessary to target our desired outlier pool for FY 1992 uses FY 1990 charges. We are proposing to adjust that model to take into account the effect of expanded Medicare coverage for inpatient hospital services during the first quarter of FY 1990 that resulted from the enactment of the Catastrophic Coverage Act of 1988 (Pub. L. 100-360). These catastrophic coverage provisions were effective with discharges occurring on or after January 1, 1989 (the second quarter of FY 1989) and were repealed by the Medicare Catastrophic Coverage Repeal Act of 1989 (Pub. L. 101-234) effective for discharges occurring on or after January 1, 1990.

We determine the outlier thresholds and establish the outlier pool based on the covered days and charges reflected in the billing data. The FY 1990 billing data that we used to determine the FY 1992 outlier payments contain 3 months of data for discharges occurring while the catastrophic legislation was in effect (data from discharges occurring on or after October 1, 1989 and before December 31, 1989) and 9 months of data for discharges occurring after the catastrophic legislation was repealed (data from discharges occurring on or after January 1, 1990 and before October 1, 1990). For discharges occurring on or after October 1, 1989 through December 31, 1989, we are not able to identify the additional days (and charges) covered under the catastrophic legislation that are no longer covered after its repeal. If we include the additional inpatient days attributable to catastrophic coverage in the model used to estimate outlier payments, we will overestimate the FY 1992 outlier payments. Since we are not

able to isolate the catastrophic-covered days and charges from other covered days and charges, we have developed an adjustment to the outlier model to account for the catastrophic-covered days reflected in the billing data. The adjustment is based on a comparative analysis of outlier payments modeled on covered days and charges and on total days and charges using postcatastrophic billing data and billing data for the period the catastrophic legislation was in effect.

We propose to adjust the model used to develop the outlier thresholds by calculating an adjustment to the 5.1 percent outlier pool payment target solely for purposes of estimating the thresholds. By adjusting the payment target, we eliminate the impact that the changes in coverage that occurred in FY 1990 would have had on the computation of the outlier thresholds. To accomplish this, we calculated, for each quarter in FY 1990, the ratio of outlier payments based on covered days and covered charges to payments based on total days and total charges. We arrived at the adjustment by comparing the ratio for the first quarter (in which catastrophic days and charges occurred) to the succeeding quarters (in which postcatastrophic days and charges occurred). The result was an adjustment factor of .9966. Based on this analysis, we estimate that outlier payments will be .9966 percent of the amounts estimated based on FY 1990 covered days and charges. To account for this, we multiplied the outlier payments estimated by the model by .9966 before determining the outlier adjustment factors that are applied to the standardized amounts and the capital Federal rate.

B. Adjustments for Area Wage Levels and Cost-of-Living

This section contains an explanation of the application of two types of adjustments to the adjusted standardized amounts that would be made by the intermediaries in determining the prospective payment rates as described in section II.D of this addendum. For discussion purposes, it is necessary to present the adjusted standardized amounts divided into labor and nonlabor portions. Table 1a, 1b, and 1c, as set forth in this addendum, contain the actual labor-related and nonlabor-related shares that will be used to calculate the prospective payment rates for hospitals located in the 50 States, the District of Columbia, and Puerto Rico.

1. Adjustment for Area Wage Levels

Sections 1886(d)(2)(H) and 1886(d)(9)(C)(iv) of the Act require that an adjustment be made to the labor-related portion of the prospective payment rates to account for area differences in hospital wage levels. This adjustment is made by the intermediaries by multiplying the labor-related portion of the adjusted standardized amounts by the appropriate wage index for the area in which the hospital is located. In section III of the preamble, we discuss certain revisions we are making to the wage index. This index is set forth in Tables 4a through 4c of this addendum.

2. Adjustment for Cost of Living in Alaska and Hawaii

Section 1886(d)(5)(H) of the Act authorizes an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States are taken into account in the adjustment for area wages above. For FY 1992, the adjustment necessary for nonlabor-related costs for hospitals in Alaska and Hawaii would be made by the intermediaries by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table below.

TABLE OF COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

Alaska—All areas.....	1.25
Hawaii:	
Oahu	1.225
Kauai	1.175
Maui	1.20
Molokai	1.20
Lanai	1.20
Hawaii	1.15

(The above factors are based on data obtained from the U.S. Office of Personnel Management.)

C. DRG Weighting Factors

As discussed in section II of the preamble, we have developed a classification system for all hospital discharges, assigning them into DRGs, and have developed weighting factors for each DRG that are intended to reflect the resource utilization of cases in each DRG relative to Medicare cases or other DRGs.

Table 5 of section IV of this addendum contains the weighting factors that we propose to use for discharges occurring in FY 1992. These factors have been

recalibrated as explained in section II.C of the preamble.

D. Calculation of Prospective Payment Rates for FY 1992

GENERAL FORMULA FOR CALCULATION OF PROSPECTIVE PAYMENT RATES FOR FY 1992

Prospective payment rate for all hospitals located outside Puerto Rico except sole community hospitals and Medicare-dependent, small rural hospitals =.	Federal rate
Prospective payment rate for sole community hospitals and Medicare-dependent, small rural hospitals (for cost reporting periods beginning on or after April 1, 1990) =.	Whichever of the rates yields the greatest aggregate payment: 100 percent of the Federal rate, 100 percent of the FY 1982 hospital-specific rate, or 100 percent of the FY 1987 hospital-specific rate
Prospective payment rate for Puerto Rico =.	75 percent of the Puerto Rico rate + 25 percent of a discharge-weighted average of the large urban, other urban, and rural national rates.

1. Federal Rate

For discharges occurring on or after October 1, 1991 and before October 1, 1992, except for sole community hospitals, Medicare-dependent, small rural hospitals, hospitals located in Puerto Rico, and hospitals subject to the regional floor, the hospital's rate is comprised exclusively of the Federal national rate. Section 1886(d)(1)(A)(iii) of the Act provides that the Federal rate is comprised of 100 percent of the Federal national rate except for those hospitals located in census regions that have a regional rate that is higher than the national rate. This provision, which was due to expire effective with discharges occurring on or after October 1, 1990, was extended by section 115(b)(1) of Public Law 101-403 and section 4002(e) of Public Law 101-508 to discharges occurring before October 1, 1993. The Federal rate for hospitals located in census regions that have a regional rate that is higher than the national rate equals 85 percent of the Federal national rate plus 15 percent of the Federal regional rate. For discharges occurring on or after October 1, 1991, rural hospitals in regions I, II, III, and IV and urban and large urban hospitals in I, IV, and VI are affected by the regional floor.

The Federal rates are determined as follows:

Step 1—Select the appropriate regional or national adjusted standardized amount considering the type of hospital and designation of the hospital as large urban, other urban, or rural (see tables 1a and 1b, section IV of this addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the applicable wage index for the geographic area in which the hospital is located (see tables 4a, 4b, and 4c, section IV of this addendum).

Step 3—For hospitals in Alaska and Hawaii, multiply the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor.

Step 4—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount (adjusted if appropriate under Step 3).

Step 5—Multiply the final amount from Step 4 by the weighting factor corresponding to the appropriate DRG (see table 5, section IV of this addendum).

2. Hospital-Specific Rate (Applicable Only to Sole Community Hospitals and Medicare-Dependent, Small Rural Hospitals)

Section 1886(d)(5)(D)(i) of the Act provides that for cost reporting periods beginning on or after April 1, 1990, sole community hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: The Federal rate (subject to the regional factor), the updated hospital-specific rate based on FY 1982 cost per discharge, or the updated hospital-specific rate based on FY 1987 cost per discharge. Under section 1886(d)(5)(C) of the Act, Medicare-dependent, small rural hospitals are eligible for special payment under the prospective payment system and, effective for cost reporting periods beginning on or after April 1, 1990 and ending before April 1, 1993, are paid based on the same formula applicable to sole community hospitals.

Hospital-specific rates have been determined for each of these hospitals based on both the FY 1982 cost per discharge and the FY 1987 cost per discharge. For a more detailed discussion of the calculation of the FY 1982 hospital-specific rate and the FY 1987 hospital-specific rate, we refer the reader to the September 1, 1983 interim final rule (48 FR 39772); the April 20, 1990 final rule with comment (55 FR 15150); and the September 4, 1990 final rule (55 FR 35994).

a. *Updating the FY 1982 and FY 1987 Hospital-Specific Rates for FY 1992 Cost Reporting Periods.* For cost reporting periods beginning on or after October 1, 1991, we are proposing to increase the hospital-specific rates by 3.8 percent (the hospital market basket percentage increase) for hospitals located in all areas. Sections 1886(b)(3)(C)(ii) and (b)(3)(D)(ii) of the Act (as amended by section 4002(c)(2)(A)(ii) of Public Law 101-508) provide that the update factor applicable to the hospital-specific rates for sole community and Medicare-dependent, small rural hospitals equals the update factor provided under section 1886(b)(3)(B)(ii) of the Act, which, for cost reporting periods beginning in FY 1992, is the market basket rate of increase.

b. *Calculation of Hospital-Specific Rate.* For sole community hospital and Medicare-dependent, small rural hospital cost reporting periods beginning on or after October 1, 1991 and before October 1, 1992, the applicable hospital-specific rate would be calculated by multiplying a hospital's hospital-specific rate for the preceding cost reporting period by the applicable update factor (that is, 3.8 percent). In addition, the hospital-specific rate would be adjusted by the budget neutrality adjustment factor (that is, 1.000018) as discussed in section II.A.4.b of this addendum. This resulting rate would be used in determining under which rate a sole community or Medicare-dependent, small rural hospital is paid for its cost reporting period beginning on or after October 1, 1991, based on the formula set forth above.

3. General Formula for Calculation of Prospective Payment Rates for Hospitals Located in Puerto Rico Beginning On or After October 1, 1991 and Before October 1, 1992

a. *Puerto Rico.* The Puerto Rico prospective payment rate is determined as follows:

Step 1—Select the appropriate adjusted average standardized amount considering the large urban, other urban, or rural designation of the hospital (see table 1c, section IV of the addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the appropriate wage index (see tables 4a and 4b, section IV of the addendum).

Step 3—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount.

Step 4—Multiply the result in Step 3 by 75 percent.

Step 5—Multiply the amount from Step 3 by the weighting factor corresponding to the appropriate DRG

weight (see table 5, section IV to the addendum).

b. National Rate. The national prospective payment rate is determined as follows:

Step 1—Multiply the labor-related portion of the national average standardized amount (see table 1c, section IV of the addendum) by the appropriate wage index.

Step 2—Add the amount from Step 1 and the nonlabor-related portion of the national average standardized amount.

Step 3—Multiply the result in Step 2 by 25 percent.

Step 4—Multiply the amount from Step 3 by the weighting factor corresponding to the appropriate DRG weight (see table 5, section IV of the addendum).

The sum of the Puerto Rico rate and the national rate computed above equals the prospective payment for a given discharge for a hospital located in Puerto Rico.

III. Proposed Target Rate Percentages for Hospitals and Hospital Units Excluded From the Prospective Payment System

The inpatient operating costs of hospitals and hospital units excluded from the prospective payment system are subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in § 413.40 of the regulations. Under these limits, an annual target amount (expressed in terms of the inpatient operating cost per discharge) is set for each hospital, based on the hospital's own historical cost experience, trended forward by the applicable update factors. This target amount is applied as a ceiling on the allowable costs per discharge for the hospital's next cost reporting period.

As discussed in section IV.F of the preamble, effective with cost reporting periods beginning on or after October 1,

1991, a hospital that has inpatient operating costs per discharge in excess of its target amount would be paid its target amount plus 50 percent of its costs in excess of the target amount. Total payments may not exceed 110 percent of the target amount. Total payments may not exceed 110 percent of the target amount. However, a hospital that has inpatient operating costs less than its target amount would be paid its costs plus the lower of—

- (1) 50 percent of the difference between the inpatient operating cost per discharge and the target amount; or
- (2) 5 percent of the target amount.

Each hospital's target amount is adjusted annually, before the beginning of its cost reporting period, by an applicable target rate percentage. For cost reporting periods beginning on or after October 1, 1991 and before October 1, 1992, section 1886(b)(3)(B)(ii) of the Act provides that the applicable percentage increase is the market basket percentage increase. In order to determine a hospital's target amount for its cost reporting period beginning in FY 1992, the hospital's target amount for its reporting period that began in FY 1991 is increased by the market basket percentage increase for FY 1992 for hospitals and units excluded from the prospective payment system is 4.0 percent. Therefore, the applicable percentage increase is also 4.0 percent.

IV. Tables

This section contains the tables referred to throughout the preamble to this proposed rule and in this addendum. For purposes of this final rule, and to avoid confusion, we have retained the designations of tables 1a, 1b, 1c, 3c, 4a, 4b, and 5 that were first used in the September 1, 1983 initial prospective payment final rule (48 FR 39844). Tables 1a, 1b, 1c, 3C, 4a, 4b, 4c, 5, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 7A, 7B, 8a, and 8b are presented below. The tables presented below are as follows:

Table 1a—National Adjusted Standardized Amounts, Labor/Nonlabor.

Table 1b—Regional Adjusted Standardized Amounts, Labor/Nonlabor.

Table 1c—Adjusted Standardized Amounts for Puerto Rico, Labor/Nonlabor.

Table 3C—Hospital Case Mix Indexes for Discharges Occurring in Federal Fiscal Year 1990.

Table 4a—Wage Index for Urban Areas.

Table 4b—Wage Index for Rural Areas.

Table 4c—Wage Index for Hospitals That Are Reclassified.

Table 5—List of Diagnosis Related Groups (DRGs), Relative Weighting Factors, Geometric Mean Length of Stay, and Length of Stay Outlier Cutoff Points Used in the Prospective Payment System.

Table 6a—New Diagnosis Codes.

Table 6b—New Procedure Codes.

Table 6c—Invalid Diagnosis Codes.

Table 6d—Invalid Procedure Codes.

Table 6e—Revised Diagnosis Code Titles.

Table 6f—Revised Procedure Code Titles.

Table 6g—Additions to the CC Exclusions List.

Table 6h—Deletions to the CC Exclusions List.

Table 6i—New HIV-Related Conditions Necessary for Assignment to MDC 25.

Table 7A—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 90 MEDPAR Update 12/90 GROUPE V8.0.

Table 7B—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 90 MEDPAR Update 12/90 GROUPE V9.0.

Table 8a—Statewide Average Operating Cost-to-Charge Ratios for Urban and Rural Hospitals (Case Weighted).

Table 8b—Statewide Average Capital Cost-to-Charge Ratios for Urban and Rural Hospitals (Case Weighted).

TABLE 1A.—NATIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large urban		Other urban		Rural	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
2512.73	1035.22	2472.95	1018.84	2522.10	812.58

TABLE 1B.—REGIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

	Large urban		Other urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
1. New England (CT, ME, MA, NH, RI, VT).....	2638.77	1080.98	2596.99	1063.86	2796.23	964.36
2. Middle Atlantic (PA, NJ, NY).....	2370.69	1024.11	2333.17	1007.90	2677.95	911.65
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV).....	2530.63	945.13	2490.57	930.18	2559.99	790.52

TABLE 1B.—REGIONAL ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR—Continued

	Large urban		Other urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
4. East North Central (IL, IN, MI, OH, WI).....	2669.20	1118.26	2626.94	1100.55	2592.34	878.60
5. East South Central (AL, KY, MS, TN).....	2428.71	855.80	2390.26	842.26	2537.23	737.17
6. West North Central (IA, KS, MN, MO, NB, ND, SD).....	2531.36	1018.92	2491.28	1002.79	2465.99	787.57
7. West South Central (AR, LA, OK, TX).....	2516.79	938.74	2476.94	923.88	2364.99	724.29
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY).....	2427.81	1005.52	2389.37	989.59	2391.64	833.02
9. Pacific (AK, CA, HI, OR, WA).....	2361.59	1148.58	2324.20	1130.40	2326.06	938.44

TABLE 1C.—ADJUSTED STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large urban		Other urban		Rural	
	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
Puerto Rico.....	2259.94	470.01	2224.16	462.57	1719.13	370.60
National.....	2500.63	972.93				

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TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
010001	01.2939	010062	01.0021	010128	00.8710	030011	01.2971	030084	01.0451
010004	00.9755	010064	01.4971	010129	01.0317	030012	01.1940	030085	01.2996
010005	01.1574	010065	01.2021	010130	01.0265	030013	01.1927	030086	01.2671
010005	01.2862	010068	00.9161	010131	01.2568	030014	01.4247	030087	01.4509
010007	01.1267	010068	01.1770	010134	00.8778	030016	01.1738	030088	01.2788
010008	01.0536	010069	01.1199	010136	00.8732	030017	01.3556	030089	01.2164
010009	01.0554	010072	01.1716	010137	01.3083	030018	01.5558	030091	00.8910
010010	01.0883	010073	00.9591	010138	00.8789	030019	01.2037	030092	01.3869
010011	01.3780	010078	01.1945	010139	01.4307	030022	01.2975	030093	01.2852
010012	01.2696	010079	01.1687	010143	01.1505	030023	01.2024	030094	01.3111
010015	01.1387	010080	00.9822	010144	01.3626	030024	01.5193	030888	01.2260
010016	01.1412	010081	01.7305	010145	01.2403	030025	01.1554	030899	01.2260
010018	00.8923	010083	01.1224	010146	01.1357	030027	01.0529	040001	01.0666
010019	01.1900	010084	01.2881	010148	00.9271	030030	01.6140	040002	01.1883
010020	01.0934	010085	01.3089	010149	01.3583	030033	01.4048	040003	01.0197
010021	01.2969	010086	00.9849	010150	00.9881	030034	01.1360	040004	01.2751
010022	01.0000	010087	01.3358	010152	01.2821	030035	01.1834	040005	01.0332
010023	01.2900	010089	01.0373	010153	01.9047	030036	01.2809	040006	01.7706
010024	01.2369	010090	01.4848	010155	01.0292	030037	01.7223	040007	01.4880
010025	01.2161	010091	01.0039	020001	01.4943	030038	01.4469	040008	01.0759
010027	00.9062	010092	01.3072	020002	01.0650	030040	01.0011	040010	01.1221
010028	01.1262	010094	01.2456	020004	01.1603	030041	00.8996	040011	00.9875
010029	01.4261	010095	01.1096	020005	00.9555	030043	01.1318	040013	00.9988
010031	01.2444	010096	00.9312	020006	01.0239	030044	01.0988	040014	01.1206
010032	00.8628	010097	01.0528	020007	01.2222	030045	01.0056	040015	01.0317
010033	01.8417	010098	01.0472	020008	00.9268	030047	00.9379	040016	01.3695
010034	01.0678	010099	01.0324	020009	00.8187	030049	00.9425	040017	01.2398
010035	01.1584	010100	01.2254	020010	00.9279	030051	01.1121	040018	01.1189
010036	01.1422	010101	01.0175	020011	00.8732	030054	00.8974	040019	01.1858
010038	01.1981	010102	00.9249	020012	01.2801	030055	01.2108	040020	01.4342
010039	01.5512	010103	01.4430	020013	00.8895	030057	01.1831	040021	01.2218
010040	01.2252	010104	01.5221	020014	01.0491	030059	01.3527	040022	01.5985
010043	00.9907	010108	01.1179	020017	01.3687	030060	01.0770	040024	00.9529
010044	01.0119	010109	01.1064	020018	00.9015	030081	01.4047	040025	01.0373
010045	01.0558	010110	00.9048	020019	00.9452	030084	01.2818	040026	01.3469
010046	01.2454	010112	01.1353	020020	00.8887	030085	01.4458	040027	01.2486
010047	00.8841	010113	01.5143	020021	00.8831	030085	01.4346	040028	00.8664
010049	01.1402	010114	01.2020	020024	01.0086	030087	01.0533	040029	01.0989
010050	00.9425	010115	00.8158	020025	00.7764	030088	00.9991	040030	00.9124
010051	00.9762	010117	01.0202	020026	01.4457	030089	01.2289	040031	00.9029
010052	01.0150	010118	01.1897	020027	00.9526	030071	01.0145	040032	00.9652
010053	01.0050	010119	01.3118	030001	01.3480	030072	00.8847	040033	00.9116
010054	01.1400	010120	00.9460	030002	01.8709	030073	01.1357	040035	00.9150
010055	01.3259	010121	01.0789	030003	01.3657	030074	01.2362	040038	01.1875
010056	01.3053	010122	00.9522	030004	00.9526	030075	00.9364	040037	01.0403
010057	01.0588	010123	01.2199	030006	01.4599	030076	01.0052	040039	01.0711
010058	00.9968	010124	01.2475	030007	01.3251	030078	01.1746	040040	00.9993
010059	01.0194	010125	01.0161	030008	01.7522	030079	00.7847	040041	01.1526
010060	00.9684	010126	01.0651	030009	01.2142	030080	01.4708	040042	01.2648
010061	00.9903	010127	01.4990	030010	01.3702	030083	01.3672	040044	00.9342

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
040045	00.9620	050007	01.4805	050072	01.2166	050133	01.1404	050204	01.3556
040047	01.0004	050008	01.4550	050073	01.1272	050135	01.3178	050205	01.2131
040048	01.1548	050009	01.6227	050074	01.0031	050136	01.3222	050207	01.1472
040050	01.0275	050013	01.9786	050075	01.1985	050137	01.2187	050208	01.1947
040051	00.9135	050014	01.1165	050076	01.4488	050138	01.5582	050211	01.2567
040053	01.0871	050015	01.4238	050077	01.6028	050139	01.1412	050212	01.1376
040054	00.9593	050016	01.1098	050078	01.1986	050140	01.2181	050213	01.3077
040055	01.2839	050017	01.8639	050079	01.4257	050143	01.3901	050214	01.5635
040058	00.9075	050018	01.1991	050080	01.2140	050144	01.4833	050215	01.3939
040060	00.9847	050019	00.8844	050081	01.5938	050145	01.2479	050217	01.1673
040062	01.3011	050021	01.3128	050082	01.4032	050146	01.1911	050218	01.3123
040063	01.3813	050022	01.4418	050084	01.4546	050147	00.6155	050220	01.2577
040064	00.9059	050024	01.4381	050086	01.1726	050148	01.1189	050221	01.4448
040066	00.9374	050025	01.5251	050087	00.6656	050149	01.2908	050222	01.5193
040067	01.0710	050026	01.4706	050088	01.0467	050150	01.2212	050224	01.4838
040069	01.0121	050028	01.2721	050089	01.2883	050152	01.4712	050225	01.2336
040070	00.9083	050029	01.3383	050090	01.2275	050153	01.6023	050226	01.3718
040071	01.3592	050030	01.2944	050091	01.1881	050154	01.2084	050228	01.2396
040072	01.0663	050032	01.1829	050092	00.9953	050155	01.1874	050229	01.0478
040074	01.1342	050033	01.3873	050093	01.5203	050158	01.5659	050230	01.3804
040075	01.1083	050034	01.2537	050096	01.0666	050159	01.3015	050231	01.4460
040076	00.9658	050036	01.6136	050097	01.5262	050161	01.6671	050232	01.8827
040077	00.9244	050038	01.3683	050099	01.5233	050164	01.2486	050233	01.2453
040078	01.2199	050039	01.5651	050100	01.7262	050166	00.9255	050234	01.3037
040080	01.0505	050040	01.1512	050101	01.3216	050167	01.3507	050235	01.3884
040081	00.8561	050041	01.1866	050102	01.2817	050168	01.6728	050236	01.3380
040082	01.1395	050042	01.1858	050103	01.5006	050169	01.4259	050238	01.4136
040084	01.1324	050043	01.4871	050104	01.3551	050170	01.3901	050239	01.3496
040085	01.1179	050045	01.2758	050107	01.3715	050172	01.2849	050240	01.3747
040088	01.1586	050046	01.1744	050108	01.3971	050173	01.2593	050241	01.2385
040090	00.9719	050047	01.5758	050109	02.0838	050174	01.5668	050242	01.4143
040091	01.0611	050049	01.3026	050110	01.1288	050175	01.3195	050243	01.4196
040093	00.9607	050051	01.1884	050111	01.3027	050177	01.3046	050245	01.4648
040095	00.9221	050052	00.6104	050112	01.4977	050179	01.2444	050248	01.1403
040100	01.1038	050053	01.2789	050113	01.1966	050180	01.3810	050251	01.2172
040105	01.0133	050054	01.2875	050114	01.5040	050181	01.3570	050254	01.1878
040106	01.0663	050055	01.2624	050115	01.4488	050183	01.1645	050256	01.5765
040107	01.0336	050056	01.2987	050116	01.3919	050186	01.3964	050257	01.3638
040109	01.1070	050057	01.3852	050117	01.2986	050188	01.3825	050258	01.3552
040114	01.5619	050058	01.3768	050118	01.1908	050189	01.0212	050260	01.0072
040115	01.0092	050060	01.4091	050121	01.2052	050190	01.0259	050261	01.1946
040116	01.2628	050061	01.2752	050122	01.4121	050191	01.3734	050262	01.5822
040118	01.1215	050063	01.3283	050124	01.2194	050192	01.1939	050263	01.3500
040119	01.1017	050065	01.4802	050125	01.3223	050193	01.3742	050264	01.4542
040122	01.0462	050066	01.2545	050126	01.3327	050194	01.2412	050267	01.4700
040124	01.1115	050067	01.2789	050127	01.3005	050195	01.3891	050268	01.1958
040126	00.9885	050068	00.9734	050128	01.4385	050196	01.2920	050270	01.2838
040131	00.8363	050069	01.5715	050129	01.5119	050197	01.6869	050272	01.3287
050002	01.3057	050070	01.1962	050131	01.2287	050199	01.3371	050274	01.0414
050006	01.2889	050071	01.2573	050132	01.3158	050201	01.1547	050276	01.1088

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
050277	01.3180	050353	01.5784	050436	01.0825	050523	01.2290	050593	01.2856
050278	01.3074	050355	00.9115	050438	01.4297	050526	01.2391	050594	01.9324
050279	01.2687	050357	01.7071	050440	01.2862	050527	01.3323	050597	01.2773
050280	01.3956	050359	01.0785	050441	01.6522	050528	01.2157	050598	01.3205
050281	01.2887	050360	01.3888	050442	01.2104	050530	01.3093	050599	01.5293
050282	01.2914	050363	01.3432	050443	00.9662	050531	01.1104	050601	01.2766
050283	01.2944	050366	01.3556	050444	01.1889	050534	01.3943	050603	01.3919
050286	00.9609	050367	01.2492	050446	00.9476	050535	01.3648	050604	01.2822
050289	01.5700	050369	01.3438	050447	01.1421	050537	01.2424	050607	01.2846
050290	01.4416	050373	01.1640	050448	01.0184	050539	01.3055	050608	01.1885
050291	01.1898	050376	01.2396	050449	01.1838	050541	01.4035	050609	01.3460
050292	01.1590	050377	01.0600	050450	00.9044	050542	01.0992	050613	01.0849
050293	00.9474	050378	01.2039	050451	00.9842	050543	01.1380	050615	01.5369
050295	01.2926	050379	01.2018	050454	01.6044	050544	01.4127	050618	01.2980
050296	01.1808	050380	01.5670	050455	01.7506	050545	00.8718	050619	01.2005
050298	01.2661	050381	01.2566	050456	01.3163	050546	00.8538	050622	01.3654
050299	01.2195	050382	01.2953	050457	01.6635	050547	01.0030	050623	01.2548
050300	01.3313	050385	01.2239	050458	00.9235	050549	01.6525	050624	01.1889
050301	01.2189	050387	01.0291	050459	01.3674	050550	01.2503	050625	01.1889
050302	01.2802	050388	00.8693	050464	01.7959	050551	01.2982	050626	01.4657
050305	01.3799	050390	01.2160	050467	01.2551	050552	01.1380	050630	01.1978
050307	01.4725	050391	01.3562	050468	01.4560	050557	01.4190	050633	01.1964
050308	01.5504	050392	00.8529	050469	01.0534	050559	01.3095	050635	01.2214
050309	01.2544	050393	01.4563	050470	01.1739	050560	01.2848	050636	01.2870
050310	01.1590	050394	01.4650	050471	01.7321	050561	01.0688	050637	01.2742
050312	01.7444	050396	01.4779	050476	01.2846	050564	01.2631	050638	01.0448
050313	01.1888	050397	00.8786	050477	01.3602	050565	01.2628	050641	01.1551
050315	01.2685	050401	01.2509	050478	00.9882	050566	00.9377	050643	00.8446
050317	01.2991	050404	01.0376	050481	01.5422	050567	01.4837	050644	00.9951
050319	01.3291	050406	01.0313	050482	00.9971	050568	01.3193	050649	01.2986
050320	01.1746	050407	01.1531	050483	01.3735	050569	01.1731	050650	01.0897
050324	01.7695	050410	01.1130	050485	01.6054	050570	01.6310	050651	01.2856
050325	01.2333	050411	01.1988	050486	01.4654	050571	01.3126	050655	00.5693
050327	01.5741	050414	01.2774	050488	01.1731	050573	01.5455	050660	01.1281
050328	01.3351	050417	01.1482	050489	01.1654	050574	01.2928	050661	00.8840
050329	01.2771	050418	01.2716	050491	01.4888	050577	01.2922	050662	01.1541
050331	01.2940	050419	01.2017	050492	01.2601	050578	01.3398	050683	01.0525
050333	01.0148	050420	01.3859	050494	01.0773	050579	01.3719	050685	00.5556
050334	01.4305	050421	01.3068	050496	01.6737	050580	01.2536	050686	00.8284
050335	01.2853	050423	01.0539	050497	00.9029	050581	01.3150	050687	01.1423
050336	01.2737	050424	01.7376	050498	01.1344	050583	01.6610	050688	01.1165
050337	01.2664	050425	01.2342	050502	01.6663	050584	01.2700	050689	01.1085
050342	01.4228	050426	01.3937	050503	01.3963	050585	01.3066	050690	01.1774
050343	01.0687	050427	00.9137	050506	01.4461	050586	01.3355	050691	01.1262
050345	01.3181	050430	00.9522	050510	01.2565	050587	01.1861	050692	00.6653
050348	01.5996	050431	01.1894	050512	01.2135	050588	01.2746	050694	01.1362
050349	01.0123	050432	01.5016	050515	01.3375	050589	01.3341	050695	01.5395
050350	01.3787	050433	01.0244	050518	01.3113	050590	01.2656	050696	00.9538
050351	01.4207	050434	01.0710	050519	01.3795	050591	01.1861	050697	01.2606
050352	01.2467	050435	01.1606	050522	01.3388	050592	01.3322	050698	01.1790

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
050679	01.3815	060047	00.8761	070018	01.2824	100018	01.2846	100075	01.6495
050680	01.2051	060049	00.9741	070019	01.1529	100019	01.4724	100076	01.3169
050682	00.7345	060050	01.0795	070020	01.3512	100020	01.3167	100077	01.2707
050684	01.2186	060052	01.0202	070021	01.2104	100021	01.3096	100078	01.1315
050685	01.1222	060053	00.9778	070022	01.5916	100022	01.4419	100079	01.1852
050686	01.1647	060054	01.2038	070023	01.2049	100023	01.2891	100080	01.5185
050687	01.1043	060056	00.9454	070024	01.2020	100024	01.1750	100081	01.1705
050688	01.0696	060057	01.0618	070025	01.5879	100025	01.4832	100082	01.3281
050689	01.4286	060058	00.8472	070026	01.1599	100026	01.3744	100083	01.3329
050690	01.1567	060060	01.0313	070027	01.2143	100027	00.8970	100084	01.3274
050691	00.4553	060062	00.9606	070028	01.4235	100028	01.3134	100085	01.3108
060001	01.4327	060063	01.2082	070029	01.2542	100029	01.3838	100086	01.3182
060003	01.1833	060064	01.3018	070030	01.2531	100030	01.0982	100087	01.8202
060004	01.0048	060065	01.3328	070031	01.3140	100031	01.3622	100088	01.3715
060005	01.6970	060066	00.9511	070033	01.3001	100033	01.3948	100089	01.2319
060006	01.1291	060068	01.1762	070034	01.2529	100034	01.4872	100090	01.2772
060007	01.1881	060070	01.0347	070035	01.3235	100035	01.4184	100092	01.2504
060008	01.0813	060071	01.1239	070036	01.2638	100036	01.4938	100093	01.4349
060009	01.3080	060072	00.9499	080001	01.5275	100039	01.5538	100098	01.0808
060010	01.5011	060073	01.0535	080002	01.1534	100040	01.5618	100099	01.2198
060011	01.1003	060074	00.9071	080003	01.2136	100042	01.1895	100100	01.1855
060012	01.3526	060075	01.2170	080004	01.2539	100043	01.3585	100102	01.1567
060013	01.1905	060076	01.2596	080005	01.2306	100044	01.3385	100103	00.9833
060014	01.4953	060085	01.0253	080006	01.1376	100045	01.3409	100105	01.2716
060015	01.3637	060087	01.4290	080007	01.1750	100046	01.3008	100106	01.0150
060016	01.0922	060088	01.0640	090001	01.4210	100047	01.3318	100107	01.2468
060017	01.2101	060090	00.8500	090002	01.3037	100048	00.9456	100108	01.0039
060018	01.1231	060093	00.8704	090003	01.3809	100049	01.3395	100109	01.1882
060020	01.4690	060096	01.1390	090004	01.5340	100050	01.1339	100110	01.3975
060022	01.4437	060100	01.3413	090005	01.2678	100051	01.1328	100112	00.9818
060023	01.4695	060101	02.0222	090006	01.2714	100052	01.3072	100113	01.7135
060024	01.5196	060102	01.3299	090007	01.1709	100053	01.1303	100114	01.3967
060026	01.3421	060103	01.1678	090008	01.3008	100054	01.3880	100117	01.3068
060027	01.2935	070001	01.7497	090009	01.3009	100055	01.3320	100118	01.2585
060028	01.3476	070002	01.7315	090010	01.0594	100056	01.4852	100121	01.1952
060029	00.9406	070003	01.1584	090011	01.6985	100057	01.3288	100122	01.3432
060030	01.3253	070004	01.1409	100001	01.2852	100059	01.4275	100124	01.2985
060031	01.3897	070005	01.2712	100002	01.3526	100060	01.6548	100125	01.0849
060032	01.3499	070006	01.2431	100004	01.0659	100061	01.4118	100126	01.4395
060033	01.0927	070007	01.3350	100005	00.9523	100062	01.5408	100127	01.4342
060034	01.2729	070008	01.2128	100006	01.5517	100063	01.2104	100128	02.2767
060036	01.2116	070009	01.2458	100007	01.8637	100065	01.2823	100129	01.4463
060037	00.9677	070010	01.4421	100008	01.5957	100067	01.4142	100130	01.1033
060038	01.1295	070011	01.1780	100009	01.4046	100068	01.4295	100131	01.2997
060039	00.9447	070012	01.2397	100010	01.3146	100069	01.3929	100132	01.3321
060041	01.1971	070013	01.3067	100012	01.3936	100070	01.3022	100134	01.0174
060042	00.9849	070014	01.1254	100014	01.2618	100071	01.3489	100135	01.4758
060043	00.9207	070015	01.2432	100015	01.3103	100072	01.1983	100137	01.1634
060044	01.1183	070016	01.2869	100016	01.0483	100073	01.7345	100138	01.0352
060046	01.2474	070017	01.3771	100017	01.6954	100074	01.2863	100139	01.0194

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX
100140 01.1304	100209 01.5408	100269 01.2825	110048 01.0763	110111 01.0298
100142 01.0621	100210 01.5696	100270 00.8839	110049 01.0895	110112 00.9510
100143 01.0869	100211 01.2445	100271 01.4812	110050 01.1049	110113 01.0061
100144 01.1381	100212 01.5078	100273 01.1525	110051 00.9471	110114 01.1586
100145 01.2855	100213 01.5365	100275 01.2552	110052 00.8759	110115 01.5301
100146 01.0883	100217 01.1382	100276 01.3046	110054 01.2026	110117 01.0621
100147 01.0883	100218 00.8897	100277 01.0237	110055 00.9132	110118 00.9041
100149 01.2593	100219 01.3940	100278 00.5639	110056 00.9298	110120 01.0225
100150 01.3655	100220 01.6952	110001 01.2142	110059 01.1637	110121 01.0088
100151 01.7231	100221 01.5027	110002 01.1994	110061 00.9331	110122 01.2889
100152 01.2312	100222 01.2884	110003 01.2331	110062 00.9021	110123 01.0124
100154 01.4536	100223 01.3851	110004 01.2101	110063 01.0573	110124 01.0866
100156 01.0812	100224 01.2447	110005 01.2823	110064 01.1940	110125 01.1198
100157 01.4309	100225 01.3883	110006 01.2585	110065 01.0443	110127 00.9337
100159 00.9687	100226 01.3056	110007 01.3514	110066 01.2153	110128 01.0196
100160 01.1538	100227 01.0757	110008 01.1404	110069 01.1596	110129 01.4601
100161 01.4608	100228 01.1889	110009 01.1589	110070 00.9244	110130 01.0070
100162 01.2810	100229 01.5103	110010 01.8427	110071 01.0561	110131 01.1163
100164 00.9682	100230 01.2335	110011 01.1115	110072 00.8928	110132 01.0967
100165 01.0459	100231 01.6107	110013 01.0425	110073 01.3367	110133 00.9122
100166 01.4250	100232 01.2521	110014 01.1368	110074 01.2689	110134 00.8958
100167 01.2846	100234 01.2165	110015 01.1343	110075 01.1923	110135 01.1159
100168 01.2657	100235 01.3985	110016 01.1478	110076 01.2973	110136 01.1537
100169 01.7364	100236 01.3282	110017 00.9489	110077 01.0287	110140 00.8933
100170 01.3193	100237 02.0301	110018 01.1227	110078 01.4698	110141 00.8088
100172 01.3788	100238 01.3597	110020 01.0928	110079 01.1488	110142 01.0882
100173 01.4655	100239 01.3580	110023 01.1701	110080 01.0335	110143 01.2133
100174 01.4987	100240 00.7806	110024 01.3469	110082 01.8625	110144 01.2952
100175 01.0892	100241 01.0250	110025 01.1931	110083 01.4293	110146 00.9463
100176 01.9083	100242 01.2801	110026 01.1373	110085 01.1080	110149 00.9607
100177 01.2961	100243 01.2958	110027 01.0865	110086 01.1081	110150 01.1914
100179 01.6133	100244 01.3630	110028 01.4484	110087 01.2270	110151 01.0101
100180 01.3752	100246 01.3040	110029 01.2955	110088 00.9402	110152 01.0133
100181 01.2785	100248 01.6204	110030 01.1978	110089 01.1014	110153 01.0341
100183 01.3207	100249 01.2892	110031 01.2192	110091 01.2627	110154 00.9770
100185 01.1506	100252 01.2480	110032 01.0849	110092 01.0277	110155 01.0332
100186 01.3815	100253 01.3749	110033 01.3439	110093 00.8687	110156 00.8536
100187 01.2363	100254 01.5141	110034 01.3588	110094 00.8854	110157 01.1708
100189 01.3201	100255 01.3781	110035 01.3135	110095 01.2797	110161 01.1700
100191 01.3120	100256 01.5674	110036 01.5624	110096 01.1245	110162 00.8497
100194 01.2335	100258 01.7042	110037 01.1619	110097 01.1011	110163 01.2754
100195 01.4793	100259 01.4287	110038 01.2558	110098 01.0571	110164 01.3043
100196 01.2254	100260 01.2673	110039 01.2634	110099 01.0999	110165 01.1426
100199 01.2602	100262 01.3139	110040 00.9525	110101 01.0163	110166 01.5891
100200 01.3139	100263 01.3897	110041 01.0913	110103 00.9450	110168 01.4825
100203 01.0985	100264 01.2785	110042 01.0932	110104 01.1277	110169 00.7331
100204 01.5274	100265 01.2120	110043 01.4883	110105 01.1700	110171 01.3191
100206 01.3632	100266 01.2971	110044 01.0867	110107 01.5214	110172 01.1002
100207 01.3449	100267 01.2401	110045 00.9739	110108 00.8223	110174 00.8742
100208 01.4386	100268 01.2960	110046 01.2050	110109 01.0225	110175 00.8824

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
110176	01.1198	130008	00.8439	140018	00.9998	140080	01.5974	140139	01.0749	140139	01.0749	140139	01.0749
110177	01.3843	130009	01.0108	140017	01.1409	140081	01.1104	140140	01.0589	140140	01.0589	140140	01.0589
110178	01.1665	130010	00.9284	140018	01.3207	140082	01.2278	140141	00.9840	140141	00.9840	140141	00.9840
110179	01.1075	130011	01.2421	140019	00.9097	140083	01.2628	140142	01.0388	140142	01.0388	140142	01.0388
110180	00.9541	130012	00.9869	140020	00.9876	140084	01.1845	140143	01.0188	140143	01.0188	140143	01.0188
110181	01.1907	130013	01.2258	140021	01.0883	140085	01.0285	140144	01.0783	140144	01.0783	140144	01.0783
110182	01.1782	130014	01.3112	140022	01.1005	140086	01.0335	140145	00.9276	140145	00.9276	140145	00.9276
110183	01.0440	130015	00.9801	140023	01.0842	140087	01.3968	140146	01.1061	140146	01.1061	140146	01.1061
110184	01.2271	130016	00.9124	140024	01.3314	140088	01.5006	140147	01.4550	140147	01.4550	140147	01.4550
110185	01.0306	130017	00.9445	140025	01.4855	140089	01.2205	140148	01.3402	140148	01.3402	140148	01.3402
110186	01.3182	130018	01.4600	140026	01.0258	140090	01.3231	140149	01.0863	140149	01.0863	140149	01.0863
110187	01.0424	130019	01.0928	140027	01.2075	140091	01.5105	140150	01.1243	140150	01.1243	140150	01.1243
110188	01.1261	130020	00.9477	140028	01.2091	140092	01.2397	140151	01.2563	140151	01.2563	140151	01.2563
110189	01.1832	130021	01.2745	140029	01.1142	140093	01.1784	140152	01.1939	140152	01.1939	140152	01.1939
110190	01.2816	130022	01.1118	140030	01.0129	140094	01.2832	140153	01.4029	140153	01.4029	140153	01.4029
110191	01.1595	130023	00.9974	140031	01.1394	140095	00.9298	140154	01.2113	140154	01.2113	140154	01.2113
110192	00.9098	130024	01.0980	140032	00.9442	140096	01.2787	140155	01.1618	140155	01.1618	140155	01.1618
110193	01.1785	130025	00.9222	140033	00.9920	140097	01.1943	140156	01.1430	140156	01.1430	140156	01.1430
110194	01.2928	130026	01.2396	140034	01.0523	140098	01.0882	140157	01.3588	140157	01.3588	140157	01.3588
110195	01.7324	130027	01.0157	140035	01.2583	140099	01.0212	140158	01.2464	140158	01.2464	140158	01.2464
110196	01.2815	130028	00.9859	140036	00.9979	140100	01.2088	140159	01.0460	140159	01.0460	140159	01.0460
110197	01.1593	130029	01.0321	140037	01.0800	140101	01.2816	140160	01.0776	140160	01.0776	140160	01.0776
110198	01.0069	130030	00.8371	140038	01.1467	140102	01.1852	140161	01.1658	140161	01.1658	140161	01.1658
110199	00.9084	130031	00.9884	140039	00.9913	140103	01.9999	140162	00.9426	140162	00.9426	140162	00.9426
110200	01.5791	130032	01.2253	140040	01.2076	140104	01.1952	140163	00.8593	140163	00.8593	140163	00.8593
110201	01.1707	130033	01.1565	140041	01.0821	140105	01.1578	140164	01.2214	140164	01.2214	140164	01.2214
110202	01.1057	130034	01.2702	140042	01.8170	140106	01.2568	140165	01.2002	140165	01.2002	140165	01.2002
110203	01.2991	130035	00.9313	140043	01.2740	140107	01.1784	140166	01.2310	140166	01.2310	140166	01.2310
110204	01.1237	130036	01.0384	140044	00.9971	140108	01.4885	140167	01.2851	140167	01.2851	140167	01.2851
110205	01.5290	130037	00.8867	140045	01.0527	140109	01.4966	140168	01.2808	140168	01.2808	140168	01.2808
110206	00.8646	130038	01.0332	140046	01.0391	140110	01.1864	140169	01.2858	140169	01.2858	140169	01.2858
110207	01.5509	130039	01.0118	140047	01.2570	140111	00.9786	140170	01.1214	140170	01.1214	140170	01.1214
110208	01.3189	130040	00.9365	140048	01.2465	140112	01.3598	140171	01.0616	140171	01.0616	140171	01.0616
110209	00.8761	130041	01.2617	140049	01.2223	140113	01.1412	140172	01.3071	140172	01.3071	140172	01.3071
110210	00.9992	130042	01.2814	140050	01.1659	140114	01.1177	140173	01.0897	140173	01.0897	140173	01.0897
110211	00.9589	130043	00.9637	140051	01.2695	140115	01.1721	140174	00.9697	140174	00.9697	140174	00.9697
110212	01.2274	130044	00.9328	140052	01.1653	140116	01.4200	140175	01.1513	140175	01.1513	140175	01.1513
110213	00.8761	130045	00.9458	140053	01.6257	140117	01.2778	140176	01.0616	140176	01.0616	140176	01.0616
110214	00.9992	130046	01.2814	140054	01.2223	140118	01.0844	140177	01.3071	140177	01.3071	140177	01.3071
110215	00.8382	130047	01.2653	140055	01.1036	140119	01.0208	140178	01.0897	140178	01.0897	140178	01.0897
110216	01.1352	130048	00.9637	140056	01.2542	140120	01.1399	140179	00.9697	140179	00.9697	140179	00.9697
110217	00.8978	130049	01.0055	140057	01.0797	140121	01.4821	140180	01.3084	140180	01.3084	140180	01.3084
110218	01.5230	130050	00.9458	140058	01.1276	140122	01.3270	140181	01.0267	140181	01.0267	140181	01.0267
110219	01.3773	130051	01.2617	140059	01.3680	140123	01.1796	140182	01.4599	140182	01.4599	140182	01.4599
110220	00.9635	130052	01.2814	140060	01.0418	140124	01.0362	140183	01.1866	140183	01.1866	140183	01.1866
110221	00.9635	130053	01.2653	140061	01.2260	140125	01.0997	140184	01.1398	140184	01.1398	140184	01.1398
110222	01.1409	130054	01.3553	140062	01.1036	140126	01.0844	140185	01.0616	140185	01.0616	140185	01.0616
110223	00.9635	130055	01.2617	140063	01.2223	140127	01.0844	140186	01.3071	140186	01.3071	140186	01.3071
110224	00.8382	130056	01.2653	140064	01.1036	140128	01.0208	140187	00.9697	140187	00.9697	140187	00.9697
110225	01.1352	130057	00.9637	140065	01.2542	140129	01.1399	140188	01.3084	140188	01.3084	140188	01.3084
110226	00.8978	130058	01.0055	140066	01.1276	140130	01.3270	140189	01.0267	140189	01.0267	140189	01.0267
110227	01.5230	130059	00.9458	140067	01.3680	140131	01.4821	140190	01.4599	140190	01.4599	140190	01.4599
110228	01.3773	130060	01.2617	140068	01.0418	140132	01.0362	140191	01.1866	140191	01.1866	140191	01.1866
110229	00.9635	130061	01.2814	140069	01.2260	140133	01.0997	140192	01.0616	140192	01.0616	140192	01.0616
110230	00.9635	130062	01.2653	140070	01.1036	140134	01.0844	140193	01.3071	140193	01.3071	140193	01.3071
110231	01.1409	130063	01.3553	140071	01.2542	140135	01.0208	140194	00.9697	140194	00.9697	140194	00.9697
110232	00.9635	130064	01.2617	140072	01.0797	140136	01.1399	140195	01.3084	140195	01.3084	140195	01.3084
110233	00.8382	130065	01.0055	140073	01.1276	140137	01.3270	140196	01.0267	140196	01.0267	140196	01.0267
110234	01.5230	130066	00.9458	140074	01.3680	140138	01.4821	140197	01.4599	140197	01.4599	140197	01.4599
110235	01.3773	130067	01.2617	140075	01.0418	140139	01.0362	140198	01.1866	140198	01.1866	140198	01.1866
110236	00.9635	130068	01.2814	140076	01.2260	140140	01.0997	140199	01.0616	140199	01.0616	140199	01.0616
110237	00.9635	130069	01.2653	140077	01.1036	140141	01.0844	140200	01.3071	140200	01.3071	140200	01.3071
110238	01.1409	130070	01.3553	140078	01.2542	140142	01.0208	140201	00.9697	140201	00.9697	140201	00.9697
110239	00.9635	130071	01.2617	140079	01.0797	140143	01.1399	140202	01.3084	140202	01.3084	140202	01.3084
110240	00.8382	130072	01.0055	140080	01.1276	140144	01.4821	140203	01.0267	140203	01.0267	140203	01.0267
110241	01.5230	130073	00.9458	140081	01.3680	140145	01.4599						
110242	01.3773	130074	01.2617	140082	01.0418	140146	01.0362						
110243	00.9635	130075	01.2814	140083	01.1036	140147	01.0997						
110244	00.9635	130076	01.2653	140084	01.1036	140148	01.0844						
110245	01.1409	130077	01.3553	140085	01.2542	140149	01.0208						
110246	00.9635	130078	01.2617	140086	01.0797	140150	01.1399						
110247	00.8382	130079	01.0055	140087	01.1276	140151	01.4821						
110248	01.5230	130080	00.9458	140088	01.3680	140152	01.4599						
110249	01.3773	130081	01.2617	140089	01.0418	140153	01.0362						
110250	00.9635	130082	01.2814	140090	01.1036	140154	01.0997						
110251	00.9635	130083	01.2653	1									

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
140204	00.9516	140295	00.9969	150052	01.0314	150111	01.1312	180041	01.1149
140205	00.9802	140297	01.4539	150053	01.0744	150112	01.1434	180043	00.9833
140206	01.1626	140299	00.9979	150054	01.0827	150113	01.1565	180044	01.2645
140207	01.2440	150001	01.1112	150058	01.6182	150114	01.0727	180045	01.5182
140208	01.4240	150002	01.3069	150057	02.2331	150115	01.2180	180046	01.0214
140209	01.4862	150003	01.5182	150058	01.4473	150122	01.1081	180047	01.3364
140210	01.0513	150004	01.2861	150059	01.1500	150123	00.9766	180048	01.0137
140211	01.1414	150005	01.2208	150060	01.1312	150124	01.1432	180049	00.8709
140212	01.2839	150006	01.2402	150061	01.1664	150125	01.3675	180050	01.0855
140213	01.2111	150007	01.1986	150062	01.0282	150126	01.5475	180051	01.1853
140215	01.0813	150008	01.3124	150063	01.1657	150127	01.2098	180052	01.0888
140217	01.2067	150009	01.2867	150064	01.0541	150128	01.1586	180054	00.9872
140218	00.9541	150010	01.2002	150065	01.0886	150129	01.2658	180055	00.9986
140220	01.1176	150011	01.1529	150066	01.1302	150130	01.1333	180056	01.0288
140223	01.4409	150012	01.5255	150067	01.0879	150132	01.3450	180057	01.3452
140224	01.2657	150013	01.0419	150069	01.2343	150133	01.2223	180058	01.5577
140226	00.7709	150014	01.2773	150070	01.0906	150134	01.2107	180059	01.1859
140228	01.5077	150015	01.2111	150071	01.1654	150135	00.7799	180060	01.0462
140229	00.9711	150017	01.5515	150072	01.2394	150136	01.0562	180061	01.0024
140230	00.9508	150018	01.1868	150073	01.0359	160001	01.1725	180062	00.9786
140231	01.2726	150019	01.2396	150074	01.4071	160002	01.1811	180063	01.1482
140232	01.0356	150020	01.0992	150075	01.2548	160003	01.0408	180064	01.4483
140233	01.5572	150021	01.5846	150076	01.0120	160005	01.1217	180065	01.1249
140234	01.1594	150022	01.1315	150077	01.1239	160007	01.0123	180066	01.0470
140236	01.0097	150023	01.3767	150078	01.0812	160008	01.0648	180067	01.2088
140239	01.4882	150024	01.2083	150079	01.1143	160009	01.1008	180068	01.1084
140240	01.2706	150025	01.4664	150082	01.3634	160012	01.1496	180069	01.3472
140242	01.4048	150026	01.1454	150084	01.8146	160013	01.2248	180070	01.0424
140245	01.0351	150027	01.0104	150085	00.9353	160014	01.0146	180071	01.0685
140246	01.0109	150028	01.1938	150086	01.1844	160016	01.2591	180072	01.1043
140250	01.2219	150030	01.1744	150088	01.1636	160018	00.8542	180073	00.9260
140251	01.2767	150031	01.1050	150089	01.2911	160020	01.0711	180074	01.0579
140252	01.2869	150032	01.6404	150090	01.2803	160021	01.1132	180075	01.0460
140253	01.3988	150033	01.5163	150091	01.1981	160023	01.0831	180076	00.9612
140258	01.2848	150034	01.3076	150092	01.1154	160024	01.3070	180077	01.0851
140271	01.0505	150035	01.3311	150094	01.0461	160025	01.7121	180079	01.2876
140273	01.1245	150036	01.0265	150095	01.0465	160026	01.0706	180080	01.1222
140275	01.1907	150037	01.1658	150096	01.0367	160027	01.1027	180081	01.1219
140276	01.9164	150038	01.2683	150097	01.1043	160028	01.2436	180082	01.6091
140280	01.1911	150039	01.0851	150098	00.9849	160029	01.3156	180083	01.4495
140281	01.4450	150042	01.2197	150099	01.3680	160030	01.2366	180085	01.0634
140285	01.2308	150043	01.0877	150100	01.5025	160032	01.0880	180086	00.9511
140286	01.1091	150044	01.2162	150101	01.1010	160033	00.9942	180088	01.0144
140288	01.5345	150045	01.1214	150102	01.0715	160034	01.3178	180089	01.2048
140289	01.2707	150046	01.2864	150103	01.1212	160036	01.0243	180090	01.0648
140290	01.3656	150047	01.5067	150104	01.1129	160035	01.0505	180091	01.1832
140291	01.2543	150048	01.1999	150105	01.1936	160036	01.0938	180092	01.0118
140292	01.2006	150049	01.0867	150106	01.0233	160037	01.0779	180093	00.9520
140293	00.8927	150050	01.1339	150109	01.2777	160039	00.9774	180094	01.1070
140294	01.0650	150051	01.2088	150110	00.9063	160040	01.2216	180095	01.1259

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX
180097 01.1772	170009 01.1718	170067 00.9705	170125 00.9109	180023 00.8638	
180098 01.0209	170010 01.1474	170068 01.1321	170126 00.9971	180024 01.0378	
180099 01.0744	170011 01.3178	170069 00.8930	170128 00.9881	180025 01.0913	
180101 01.1778	170012 01.4124	170070 00.9468	170131 01.0840	180026 00.9952	
180102 01.2820	170013 01.2645	170072 00.9088	170133 01.2407	180027 01.1348	
180103 00.9491	170014 01.0403	170073 01.2139	170134 00.9946	180028 00.9853	
180104 01.1015	170015 01.0468	170074 01.1243	170137 01.1592	180029 01.2555	
180106 01.0535	170016 01.5469	170075 00.8413	170139 00.9539	180030 01.1198	
180107 01.0888	170017 01.1568	170076 01.1557	170140 01.0245	180031 00.8935	
180108 01.2148	170018 01.0685	170077 01.0334	170142 01.2089	180032 00.8158	
180109 01.0529	170019 01.2587	170078 00.9518	170143 01.1228	180033 01.0038	
180110 01.4715	170020 01.2301	170079 00.9773	170144 01.4327	180034 01.0292	
180111 01.0625	170021 00.9328	170080 01.0879	170145 01.1781	180035 01.4035	
180112 01.2460	170022 01.2237	170081 00.9560	170146 01.2851	180036 01.0728	
180113 00.9750	170023 01.3011	170082 01.0264	170147 01.1484	180037 01.3145	
180114 01.0051	170024 01.1920	170083 00.9706	170148 01.2926	180038 01.2353	
180115 01.0766	170025 01.1727	170084 01.5736	170150 01.1339	180039 01.7963	
180116 01.1198	170026 01.0663	170085 01.3908	170151 01.0339	180040 01.0892	
180117 01.2867	170027 01.1687	170086 01.0039	170152 01.0187	180041 01.0698	
180118 01.0810	170028 01.0127	170087 00.9872	170153 00.8311	180042 01.0087	
180119 00.8733	170029 00.9115	170088 00.8655	170154 00.9552	180043 01.1096	
180120 00.9870	170030 01.0445	170089 00.8458	170156 01.0782	180044 01.1713	
180122 01.1184	170031 01.2222	170090 00.9887	170158 01.0151	180045 01.0050	
180123 01.0767	170032 01.0223	170091 01.0202	170159 00.8945	180046 00.9875	
180124 01.1651	170033 00.9197	170092 00.8863	170160 01.0035	180047 01.1683	
180126 01.0521	170034 00.8447	170093 01.1557	170161 01.2068	180048 01.3434	
180129 01.1444	170035 00.8447	170094 00.8883	170162 01.0402	180049 01.2820	
180130 01.0848	170036 00.9397	170095 00.7727	170163 00.8855	180050 01.1880	
180131 01.1760	170037 01.0654	170096 01.0017	170164 01.2591	180051 01.0055	
180132 00.9380	170038 00.8628	170097 01.0017	170165 01.4518	180052 01.0407	
180133 01.1434	170039 01.0828	170098 01.1654	170166 01.1310	180053 01.0112	
180134 00.9332	170040 00.9640	170099 01.3934	170167 01.1338	180054 01.0465	
180135 00.9594	170041 01.0018	170100 01.0036	170168 01.1434	180055 00.9163	
180138 00.9724	170042 01.2128	170101 00.8821	170169 01.0244	180056 00.9381	
180140 01.0481	170043 01.0558	170102 00.9874	170170 01.1203	180057 01.0487	
180141 00.9165	170044 01.2847	170103 00.9783	170171 01.3743	180058 01.0753	
180142 01.1090	170045 01.0505	170104 01.1035	170172 01.6674	180059 00.9487	
180143 01.1017	170046 01.0668	170105 01.1183	170173 01.1568	180060 01.0891	
180145 01.0310	170047 01.1572	170106 01.0338	170174 01.2401	180061 01.7048	
180146 01.2821	170048 00.9706	170107 01.1184	170175 01.3248	180062 01.1343	
180147 01.2378	170049 01.0245	170108 01.1440	170176 01.5031	180063 00.9869	
180151 01.1144	170050 01.0474	170109 00.9845	170177 01.1260	180064 01.0284	
180152 01.0733	170051 01.0662	170110 01.0062	170178 01.2645	180065 00.9544	
180153 01.5134	170052 01.0332	170111 00.8500	170179 01.1857	180066 01.9959	
170001 01.1867	170053 00.9538	170112 01.8139	170180 01.0200	180067 01.3478	
170003 01.1829	170054 01.1227	170113 01.5827	170181 00.8565	180068 01.2332	
170004 01.1320	170055 00.9789	170114 01.0149			
170006 01.1759	170056 00.9789				
170007 01.2074	170057 01.0245				
170008 01.0527	170058 01.0474				
	170059 01.0662				
	170060 01.0332				
	170061 00.9538				
	170062 00.8556				
	170063 01.1227				
	170064 00.9789				
	170065 00.9789				

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX
180087 01.0118	190015 01.2020	190109 01.0557	190182 01.0691	200032 01.2573	200033 01.6723	200034 01.1916
180088 01.5512	190017 01.1944	190110 00.9755	190183 01.0105	200033 01.6723	200034 01.1916	200037 01.1540
180092 01.1235	190018 01.1971	190111 01.4624	190184 00.9575	200033 01.6723	200034 01.1916	200038 01.0870
180093 01.3466	190019 01.4251	190112 01.2895	190185 01.1796	200037 01.1540	200038 01.0870	200039 01.2637
180094 00.9651	190020 01.1410	190113 01.2221	190186 00.9333	200038 01.0870	200039 01.2637	200040 01.0844
180095 01.0059	190023 00.8288	190114 00.9504	190187 00.8035	200040 01.0844	200041 01.1741	200042 01.1475
180099 00.9540	190025 01.1710	190115 01.2751	190188 00.8035	200041 01.1741	200042 01.1475	200043 00.7778
180101 01.2321	190026 01.2711	190116 01.0143	190189 01.2223	200043 00.7778	200044 01.1475	200045 01.1077
180102 01.3332	190027 01.3774	190118 01.0143	190190 01.1332	200045 01.1077	200046 01.0844	200047 00.9512
180103 01.6792	190029 01.2139	190119 00.9076	190191 01.1503	200047 00.9512	200048 01.0844	200049 01.0824
180104 01.3957	190033 00.9473	190120 00.8829	190192 01.1212	200050 01.1077	200051 00.9512	200052 01.0824
180105 00.9312	190034 01.2140	190122 01.2086	190193 01.1516	200052 01.0824	200053 00.9800	200054 01.2114
180106 00.8974	190035 01.3583	190124 01.3230	190194 01.2645	200055 01.0494	200056 00.9800	200057 01.2114
180108 00.9521	190036 01.5776	190125 01.2782	190195 01.1503	200058 01.0800	200059 01.2114	200060 01.2114
180115 01.0134	190037 01.0125	190127 01.3902	190196 01.1516	200061 01.2114	200062 00.9800	200063 01.2114
180116 01.2438	190039 01.3798	190128 00.8758	190197 01.1516	200063 01.2114	200064 01.2114	200065 01.2114
180117 01.2472	190040 01.3073	190130 00.9779	190198 01.1516	200066 01.2114	200067 01.2114	200068 01.2114
180118 00.9977	190041 01.5025	190131 01.2650	190199 01.2645	200068 01.2114	200069 01.2114	200070 01.2114
180120 00.9262	190043 01.0365	190132 01.1456	190201 01.2645	200071 01.2114	200072 01.2114	200073 01.2114
180121 01.0728	190044 01.0789	190133 01.0095	190202 01.2680	200073 01.2114	200074 01.2114	200075 01.2114
180122 00.9706	190045 01.2530	190134 01.0235	190203 01.5904	200075 01.2114	200076 01.2114	200077 01.2114
180123 01.3445	190046 01.3987	190135 01.3148	190204 01.3791	200078 01.2114	200079 01.2114	200080 01.2114
180124 01.2029	190047 01.1378	190136 00.9534	190205 01.3153	200081 01.2114	200082 01.2114	200083 01.2114
180125 00.9907	190048 01.0618	190138 00.8019	190206 01.3958	200084 01.2114	200085 01.2114	200086 01.2114
180126 01.0124	190049 01.0224	190140 00.9766	190207 01.2916	200087 01.2114	200088 01.2114	200089 01.2114
180127 01.1325	190050 01.1058	190142 00.9474	190208 00.8447	200090 01.2114	200091 01.2114	200092 01.2114
180128 01.0910	190053 01.0073	190144 01.1593	190211 00.8690	200093 01.2114	200094 01.2114	200095 01.2114
180129 01.1668	190054 01.3031	190145 00.9391	190212 00.8851	200096 01.2114	200097 01.2114	200098 01.2114
180130 01.3535	190059 00.9462	190146 01.4897	190213 00.8851	200099 01.2114	200100 01.2114	200101 01.2114
180132 01.2958	190060 01.2514	190147 00.9821	190214 00.8851	200102 01.2114	200103 01.2114	200104 01.2114
180133 01.2008	190064 01.3915	190148 00.9088	190215 00.8851	200105 01.2114	200106 01.2114	200107 01.2114
180134 01.1120	190065 01.4032	190149 00.9945	190216 00.8851	200108 01.2114	200109 01.2114	200110 01.2114
180136 01.2645	190071 00.8722	190151 01.1020	190217 00.8851	200111 01.2114	200112 01.2114	200113 01.2114
180137 01.7295	190075 01.3534	190152 01.3725	190218 00.8851	200114 01.2114	200115 01.2114	200116 01.2114
180138 01.1963	190077 00.9081	190155 01.0556	190219 00.8851	200117 01.2114	200118 01.2114	200119 01.2114
180139 00.9341	190078 01.1493	190156 00.8467	190220 00.8851	200120 01.2114	200121 01.2114	200122 01.2114
190001 00.9119	190079 01.2471	190158 01.3046	190221 00.8851	200123 01.2114	200124 01.2114	200125 01.2114
190002 01.5028	190081 00.8870	190160 01.1026	190222 00.8851	200126 01.2114	200127 01.2114	200128 01.2114
190003 01.3243	190083 00.8760	190161 00.9382	190223 00.8851	200129 01.2114	200130 01.2114	200131 01.2114
190004 01.1415	190086 01.2278	190162 01.1355	190224 00.8851	200132 01.2114	200133 01.2114	200134 01.2114
190005 01.1728	190088 01.2033	190164 01.0944	190225 00.8851	200135 01.2114	200136 01.2114	200137 01.2114
190006 01.1110	190089 01.1071	190165 01.0353	190226 00.8851	200138 01.2114	200139 01.2114	200140 01.2114
190007 01.0590	190090 01.2247	190166 01.0622	190227 00.8851	200141 01.2114	200142 01.2114	200143 01.2114
190008 01.4123	190092 01.2676	190167 01.3163	190228 00.8851	200144 01.2114	200145 01.2114	200146 01.2114
190009 01.1753	190095 01.0545	190170 00.9772	190229 00.8851	200147 01.2114	200148 01.2114	200149 01.2114
190010 00.9686	190098 01.2482	190173 01.3755	190230 00.8851	200150 01.2114	200151 01.2114	200152 01.2114
190011 01.0595	190099 01.2360	190175 01.1742	190231 00.8851	200153 01.2114	200154 01.2114	200155 01.2114
190012 00.9915	190102 01.4217	190176 01.4154	190232 00.8851	200156 01.2114	200157 01.2114	200158 01.2114
190013 01.1903	190103 00.9674	190177 01.4365	190233 00.8851	200159 01.2114	200160 01.2114	200161 01.2114
190014 00.9455	190106 01.1617	190178 01.0077	190234 00.8851	200162 01.2114	200163 01.2114	200164 01.2114

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX
210036 01.1619	220048 01.3790	220111 01.1777	230039 01.2847	230108 01.1082
210037 01.1925	220048 01.1703	220114 01.0691	230040 01.2418	230110 01.2538
210038 01.3129	220049 01.1325	220115 01.3489	230041 01.1164	230111 00.8651
210039 01.1529	220050 01.0087	220116 01.0882	230042 01.1028	230113 00.8545
210040 01.2761	220051 01.1750	220117 00.9882	230043 00.8935	230114 00.8012
210043 01.1674	220052 01.2118	220118 01.8320	230046 01.5223	230115 00.9547
210044 01.2029	220053 01.2247	220119 01.2988	230047 01.2059	230116 00.9380
210045 00.9931	220055 01.1672	220120 00.9845	230051 00.9701	230117 01.7537
210046 01.1085	220057 01.2207	220123 00.9116	230053 01.3559	230118 01.2255
210048 01.1103	220058 01.0295	220126 01.2534	230054 01.5658	230119 01.1514
210049 01.1121	220060 01.0795	220128 01.1217	230055 01.0855	230120 01.0185
210051 01.2344	220062 00.5593	220129 01.0714	230056 01.0082	230121 01.1563
210054 01.2275	220063 01.1374	220131 01.1271	230058 01.1094	230122 01.3362
210055 01.1854	220064 01.1956	220133 00.7341	230059 01.4151	230124 01.0611
210056 01.3568	220065 01.1430	220135 01.0885	230062 01.0554	230125 01.4355
210057 01.1612	220066 01.3006	220154 00.9150	230063 01.2084	230128 01.3358
210058 01.7171	220067 01.1913	220156 01.1884	230065 01.3108	230129 01.8092
210059 01.2850	220068 00.6390	220158 01.2287	230066 01.2411	230130 01.5239
220001 01.1563	220070 01.1534	220162 01.9302	230068 01.2634	230132 01.3302
220002 01.3320	220071 01.7568	220163 01.9302	230068 01.2634	230133 01.1082
220003 01.0155	220073 01.2088	220171 01.4352	230069 01.1436	230134 01.1000
220004 01.3566	220074 01.0860	220173 00.5510	230070 01.2903	230135 01.2181
220006 01.2054	220075 00.7489	220175 00.9529	230071 00.6869	230137 01.0680
220008 01.2042	220076 01.1838	230001 01.2540	230072 01.2008	230138 00.8855
220010 01.1609	220077 01.5914	230002 01.2122	230075 01.2758	230140 01.1608
220011 01.2613	220079 01.1176	230003 01.1339	230076 01.1450	230141 01.4882
220012 01.1942	220080 01.1504	230004 01.1339	230077 02.0090	230142 01.2431
220015 01.1999	220081 00.9689	230005 01.1666	230078 01.1963	230143 01.2788
220016 01.1555	220082 01.1903	230006 01.0846	230080 01.2542	230144 01.1869
220017 01.2430	220083 01.1817	230007 01.1007	230081 01.1655	230145 01.1291
220019 01.0826	220084 01.1984	230012 00.8601	230089 01.0705	230150 01.6540
220020 01.1011	220085 01.5454	230013 01.2840	230082 01.3223	230151 01.3787
220021 01.1733	220086 01.5286	230014 00.9820	230085 01.1943	230147 01.2758
220023 01.2141	220088 01.2279	230015 01.2819	230086 01.0044	230148 01.1106
220024 01.1756	220089 01.2282	230017 01.5112	230087 01.0705	230150 01.6540
220025 01.0577	220090 01.2012	230019 01.5227	230089 01.3223	230151 01.3787
220026 01.2231	220092 01.1704	230020 01.4743	230090 01.0919	230153 01.0634
220028 01.3302	220095 01.1796	230021 01.4107	230092 01.2122	230154 01.0859
220030 01.0405	220097 01.0500	230022 01.2401	230093 01.1291	230155 01.0082
220031 01.6594	220098 01.1390	230024 01.4654	230095 01.0789	230156 01.5761
220033 01.1595	220099 01.1146	230027 01.1428	230096 01.0746	230157 01.3722
220034 01.1939	220100 01.2279	230029 01.4383	230097 01.3124	230159 01.3260
220035 01.1792	220101 01.3107	230030 01.1707	230098 01.4230	230161 01.8047
220036 01.4809	220102 00.8345	230031 01.3369	230098 01.1475	230162 00.9430
220038 01.2056	220104 01.1722	230032 01.7230	230100 01.1360	230165 01.6425
220040 01.2806	220105 01.1517	230034 01.1836	230101 01.0859	230167 01.1740
220041 01.1574	220106 01.1149	230035 01.0964	230103 01.0155	230169 01.2775
220042 01.1388	220107 01.1154	230036 01.2572	230104 01.4169	230171 01.0286
220045 01.2066	220108 01.1534	230037 01.0912	230105 01.5268	230172 01.1307
	220110 01.8909	230038 01.4920	230106 01.1055	230173 01.4395
			230107 01.0325	230174 01.2678

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
230175	01.0655	230275	00.9286	240063	01.4220	240122	01.0879	240192	00.9313
230176	01.1675	230276	00.8316	240064	01.2032	240123	01.0397	240193	00.9382
230178	01.0538	230277	01.2251	240065	01.0304	240124	01.0670	240196	01.3050
230179	00.7650	240001	01.5358	240068	01.2984	240125	01.0212	240200	00.9743
230180	01.1331	240002	01.6148	240069	01.2441	240127	01.0374	240201	00.9937
230184	01.1334	240003	01.2545	240071	01.1190	240128	01.1610	240205	00.8552
230186	01.0134	240004	01.3934	240072	00.9856	240129	00.9618	240206	00.8535
230188	01.1029	240005	01.0293	240073	01.0516	240130	00.9957	240207	01.2263
230189	00.9462	240006	01.1358	240074	00.8762	240132	01.2260	240210	01.2607
230190	01.0910	240007	01.0656	240075	01.2108	240133	01.1365	240211	00.9945
230191	00.9617	240008	01.1108	240076	01.0487	240134	00.9806	250001	01.3498
230193	01.2381	240009	01.0704	240077	00.9984	240135	00.9018	250002	00.8010
230194	01.1362	240010	01.8241	240078	01.3581	240136	00.9057	250003	00.9118
230195	01.3187	240011	01.0510	240079	01.1479	240137	01.1869	250004	01.3624
230197	01.2000	240013	01.1852	240080	01.3501	240138	00.8660	250005	00.9680
230199	01.1826	240014	01.1240	240082	01.1411	240139	01.0308	250006	01.0560
230201	01.0332	240016	01.3262	240083	01.2095	240140	00.8485	250007	01.1281
230204	01.2687	240017	01.1761	240084	01.2352	240141	01.0499	250008	00.9460
230205	01.0347	240018	01.2466	240085	00.9028	240142	01.1017	250009	01.0994
230207	01.2649	240019	01.3684	240086	01.0688	240143	01.0369	250010	01.0636
230208	01.1100	240020	01.1862	240087	01.0842	240144	00.9542	250012	00.9391
230211	00.9284	240021	00.9952	240088	01.3926	240145	00.9502	250015	01.0634
230212	01.0590	240022	01.0769	240089	01.0552	240146	00.9546	250016	00.8458
230213	01.0112	240023	01.0506	240090	01.0726	240148	00.9919	250017	01.0068
230216	01.2856	240025	01.1907	240091	00.9336	240150	00.9647	250018	01.0314
230217	01.1125	240027	01.0804	240093	01.3394	240152	00.9332	250019	01.2157
230219	00.9015	240028	01.0999	240094	01.0426	240153	01.0420	250020	01.0202
230221	01.2359	240029	01.1806	240096	00.9509	240154	01.0316	250021	00.9731
230222	01.2536	240030	01.3045	240097	01.0979	240155	01.0522	250023	00.8271
230223	01.2616	240031	00.8148	240098	00.9633	240156	01.1172	250024	01.0396
230224	01.2483	240036	01.4178	240099	01.0834	240157	01.0613	250025	01.0224
230227	01.3098	240037	01.0642	240100	01.3078	240158	01.0268	250027	00.9645
230228	01.2618	240038	01.4135	240101	01.2316	240160	00.9674	250029	00.8812
230230	01.2531	240040	01.2214	240102	00.9058	240161	00.9367	250030	00.9200
230232	01.0605	240041	01.1989	240103	01.1308	240162	01.0779	250031	01.1621
230235	00.9912	240043	01.1137	240104	01.2378	240163	00.8867	250032	01.1179
230236	01.2984	240044	01.1586	240105	00.9250	240166	01.1059	250033	00.9931
230237	01.0752	240045	01.0644	240106	01.2866	240167	00.8472	250034	01.4198
230239	01.1596	240047	01.4139	240107	00.8841	240169	00.9658	250035	00.8595
230241	01.1276	240048	01.2909	240108	01.0028	240170	01.1018	250036	00.9725
230244	01.2938	240049	01.5880	240109	01.1226	240171	01.1031	250037	00.8975
230253	01.1057	240050	01.0036	240110	01.0735	240172	01.1674	250038	00.9158
230254	01.2435	240051	00.9173	240111	01.0566	240173	01.0391	250039	01.0009
230257	00.8913	240052	01.1820	240112	01.0525	240175	00.8384	250040	01.1745
230259	01.0752	240053	01.4091	240114	01.0151	240176	01.0238	250042	01.1810
230264	01.1785	240056	01.3326	240115	01.3917	240179	01.0193	250043	00.8691
230266	01.3054	240057	01.7365	240116	00.9776	240180	00.9755	250044	01.0841
230269	01.2454	240058	01.0175	240117	01.1133	240183	01.1308	250045	01.1516
230270	01.2364	240059	01.0964	240119	00.8856	240184	01.0455	250046	01.0246
230273	01.3672	240061	01.5143	240121	00.9493	240187	01.1359	250047	00.9200

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
250048	01.3191	250120	01.0859	260033	01.2630	260103	01.3204	260190	01.1394	260190	01.1394	260190	01.1394
250049	00.9499	250122	01.1906	260034	01.0228	260104	01.5700	260191	01.2515	260191	01.2515	260191	01.2515
250050	01.0597	250123	01.1293	260035	01.0623	260105	01.7896	260192	01.2055	260192	01.2055	260192	01.2055
250051	00.9179	250124	00.8708	260036	01.0850	260106	01.2698	260193	01.0986	260193	01.0986	260193	01.0986
250057	01.1241	250125	01.1647	260037	01.1710	260107	01.6385	260194	01.2101	260194	01.2101	260194	01.2101
250058	01.1012	250126	01.0196	260038	01.3572	260108	01.0132	260195	01.4216	260195	01.4216	260195	01.4216
250059	01.0149	250127	00.8873	260039	01.4382	260109	01.4864	260196	01.1785	260196	01.1785	260196	01.1785
250060	00.8047	250128	01.0173	260040	00.8982	260110	01.0399	260197	01.2817	260197	01.2817	260197	01.2817
250061	00.9568	250129	01.0962	260041	01.2380	260111	01.3413	260198	01.1416	260198	01.1416	260198	01.1416
250062	01.0586	250130	00.9068	260042	01.0785	260112	01.1923	260199	01.2269	260199	01.2269	260199	01.2269
250063	00.8504	250131	00.9181	260043	01.2857	260113	01.1324	260200	01.6709	260200	01.6709	260200	01.6709
250065	00.9629	250132	00.8806	260044	01.3104	260114	01.1698	260201	00.9090	260201	00.9090	260201	00.9090
250066	00.8814	250133	00.8309	260045	00.9643	260115	01.2006	260202	00.9222	260202	00.9222	260202	00.9222
250067	01.0044	250134	00.9199	260046	01.0746	260116	01.1897	260203	00.9152	260203	00.9152	260203	00.9152
250068	00.8530	250135	01.1488	260047	01.2312	260117	01.2150	260204	01.0000	260204	01.0000	260204	01.0000
250069	01.1876	250136	00.9041	260048	01.1451	260118	00.9845	260205	01.1161	260205	01.1161	260205	01.1161
250071	00.9310	250137	00.8151	260049	01.0899	260119	00.9901	260206	01.3515	260206	01.3515	260206	01.3515
250072	01.1282	250138	01.3157	260050	01.3047	260120	01.0552	260207	01.2245	260207	01.2245	260207	01.2245
250073	00.9892	250139	00.8685	260051	01.1318	260121	01.0362	260208	01.5033	260208	01.5033	260208	01.5033
250076	00.9605	250140	00.8212	260052	01.1784	260122	01.2400	260209	00.9556	260209	00.9556	260209	00.9556
250077	00.9800	250141	01.5131	260053	00.9960	260123	01.2177	260210	01.2215	260210	01.2215	260210	01.2215
250078	01.3570	250142	01.3136	260054	01.1292	260124	01.2244	260211	00.9097	260211	00.9097	260211	00.9097
250079	00.8161	250143	01.0029	260055	01.1292	260125	01.2244	260212	01.1158	260212	01.1158	260212	01.1158
250081	01.1668	250144	01.0473	260056	01.2452	260126	01.6803	260213	01.2665	260213	01.2665	260213	01.2665
250082	01.2032	250145	01.3308	260057	01.0784	260127	01.7803	260214	01.0896	260214	01.0896	260214	01.0896
250083	00.9325	250146	01.2637	260058	01.4906	260128	01.2722	260215	00.9610	260215	00.9610	260215	00.9610
250084	01.2018	250147	01.1881	260059	00.9926	260129	01.3142	260216	01.0033	260216	01.0033	260216	01.0033
250085	00.9784	250148	01.2879	260060	00.9631	260130	01.1812	260217	01.0779	260217	01.0779	260217	01.0779
250086	00.9581	250149	01.2012	260061	00.9926	260131	00.9472	260218	01.0787	260218	01.0787	260218	01.0787
250088	01.0306	250150	01.5022	260062	01.7347	260132	00.9472	260219	00.9854	260219	00.9854	260219	00.9854
250089	00.9532	250151	01.0084	260063	01.0515	260133	01.0908	260220	00.8844	260220	00.8844	260220	00.8844
250091	00.9574	250152	01.0860	260064	00.9571	260134	01.1013	260221	01.1377	260221	01.1377	260221	01.1377
250093	01.1639	250153	01.0860	260065	01.1945	260135	01.1605	260222	00.9136	260222	00.9136	260222	00.9136
250094	01.1819	250154	01.5598	260066	01.3784	260136	00.9971	260223	01.0130	260223	01.0130	260223	01.0130
250095	01.0970	250155	01.0614	260067	01.0955	260137	01.2148	260224	00.9257	260224	00.9257	260224	00.9257
250096	01.1136	250156	01.0969	260068	01.0272	260138	01.0979	260225	01.0567	260225	01.0567	260225	01.0567
250097	01.1819	250157	01.2532	260069	01.0867	260139	00.9857	260226	00.8579	260226	00.8579	260226	00.8579
250098	00.9065	250158	00.9684	260070	01.4050	260140	01.2285	260227	01.1523	260227	01.1523	260227	01.1523
250099	01.2589	250159	00.9867	260071	01.1771	260141	01.0243	260228	00.9257	260228	00.9257	260228	00.9257
250100	01.1470	250160	01.4781	260072	01.0955	260142	01.2285	260229	01.0567	260229	01.0567	260229	01.0567
250101	00.8846	250161	01.2634	260073	01.0272	260143	01.0979	260230	00.8579	260230	00.8579	260230	00.8579
250102	01.3645	250162	01.3445	260074	00.9968	260144	01.1244	260231	01.1523	260231	01.1523	260231	01.1523
250104	01.2810	250163	01.3445	260075	01.1246	260145	01.2905	260232	00.9257	260232	00.9257	260232	00.9257
250105	00.9270	250164	01.2109	260076	01.3713	260146	01.2775	260233	00.8829	260233	00.8829	260233	00.8829
250107	00.8875	250165	01.1100	260077	01.5092	260147	01.2775	260234	01.1513	260234	01.1513	260234	01.1513
250109	01.0052	250166	01.2255	260078	01.1428	260148	01.4481	260235	01.5041	260235	01.5041	260235	01.5041
250112	00.9485	250167	01.0136	260079	01.0649	260149	01.4881	260236	01.0257	260236	01.0257	260236	01.0257
250113	00.9535	250168	01.0649	260080	01.3288	260150	01.4804	260237	01.2393	260237	01.2393	260237	01.2393
250117	01.0752	250169	01.0549	260081	01.3288	260151	01.4804	260238	00.9714	260238	00.9714	260238	00.9714
250119	00.9620	250170	01.0875	260082	01.3693	260152	01.3288	260239	00.8452	260239	00.8452	260239	00.8452
		250171	01.0857	260083	01.1534	260153	01.1489	260240	00.8533	260240	00.8533	260240	00.8533
		250172	01.3140	260084	01.1829	260154	01.1588	260241	01.1349	260241	01.1349	260241	01.1349
		250173	01.5413	260085	01.0279	260155	01.0289						

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.
CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
270058	01.0278	280042	01.0615	280107	00.9965	300015	01.0367	310042	01.1233
270059	00.8752	280043	00.9697	280108	01.0054	300016	01.1496	310043	01.2324
270060	00.9334	280045	01.0202	280109	00.9012	300017	01.1382	310044	01.2440
270063	00.8877	280046	01.0929	280110	01.1076	300018	01.2402	310045	01.2300
270067	00.8966	280047	01.2054	280111	01.2336	300019	01.1691	310047	01.2554
270068	00.9025	280048	01.0374	280114	00.8935	300020	01.1670	310048	01.1680
270071	00.9150	280049	01.0196	280115	01.0345	300021	01.1104	310049	01.2539
270072	00.9129	280050	00.9685	280117	01.0454	300022	01.1235	310050	01.2060
270073	01.1078	280051	01.0816	280118	00.9677	300023	01.2179	310051	01.2475
270074	00.9795	280052	01.1203	280119	00.8422	300024	01.2505	310052	01.1557
270075	00.8833	280054	01.1716	280122	01.0289	300028	01.1423	310054	01.2642
270076	00.8125	280055	00.9782	280123	01.1403	300029	01.2784	310058	01.1998
270079	00.9805	280056	01.0053	290001	01.4139	300033	01.0452	310057	01.2203
270080	01.1129	280057	01.0635	290002	01.0421	300034	01.6561	310058	01.1970
270081	00.9830	280058	01.1958	290003	01.6040	310001	01.5129	310060	01.1630
270082	00.9215	280060	01.3781	290005	01.2245	310002	01.6716	310061	01.1477
270083	01.0359	280061	01.2855	290006	01.1463	310003	01.1922	310062	01.1385
270084	00.9517	280062	01.2006	290007	01.6420	310005	01.2455	310063	01.2982
280001	01.1359	280064	01.0639	290008	01.2157	310006	01.1597	310064	01.1844
280003	01.8254	280065	01.2073	290009	01.5473	310008	01.2890	310067	01.1816
280004	00.9444	280066	01.0442	290010	01.1008	310009	01.1515	310068	01.2197
280005	01.3823	280068	00.9192	290011	00.9643	310010	01.2072	310069	01.1019
280009	01.4721	280070	00.9686	290012	01.3671	310011	01.2164	310070	01.2396
280011	01.0342	280073	01.0234	290013	01.0335	310012	01.4317	310071	00.5052
280012	01.1624	280074	01.1506	290014	00.9641	310013	01.2469	310072	01.1693
280013	01.6989	280075	01.3381	290015	00.9882	310014	01.4999	310073	01.2298
280014	01.1421	280076	00.9625	290016	00.8830	310015	01.5033	310074	01.3057
280015	01.0527	280077	01.2757	290018	01.0768	310016	01.2043	310075	01.2452
280017	01.0383	280078	00.8139	290019	01.2452	310017	01.3321	310076	01.2511
280018	00.9478	280079	00.9275	290020	01.0057	310018	01.0833	310077	01.5504
280020	01.4488	280080	00.9849	290021	01.5048	310019	01.5306	310078	01.2351
280021	01.1473	280081	01.3682	290022	01.6224	310020	01.1973	310081	01.1382
280022	01.0480	280082	01.1067	290023	01.0517	310021	01.2208	310083	01.2807
280023	01.3802	280083	00.9772	290029	00.8521	310022	01.1693	310084	01.1638
280024	00.8394	280084	00.9737	290031	01.0681	310024	01.1951	310085	01.2010
280025	00.9492	280085	01.4034	290032	01.4386	310025	01.1465	310086	01.1759
280026	01.0047	280088	01.6386	290033	01.2352	310026	01.2324	310087	01.1677
280028	00.8313	280089	00.9988	300001	01.2781	310027	01.2143	310088	01.2085
280029	00.9761	280090	01.0248	300002	01.1156	310028	01.1552	310089	01.1921
280030	01.6435	280091	01.0832	300003	01.8078	310029	01.7180	310091	01.2225
280031	01.1404	280092	00.9400	300005	01.3845	310031	02.5107	310092	01.2433
280032	01.1731	280093	00.9295	300006	01.1322	310032	01.2196	310093	01.0861
280033	00.9881	280094	01.0511	300007	01.1572	310033	01.1533	310096	01.6921
280034	01.2438	280097	00.9080	300008	01.1874	310034	01.1427	310105	01.0948
280035	00.9106	280098	01.0028	300009	01.1599	310036	01.1918	310108	01.2160
280037	01.0305	280101	01.1061	300010	01.2509	310037	01.2218	310110	01.1793
280038	01.0356	280102	00.9020	300011	01.1986	310038	01.6108	310111	01.2303
280039	01.0657	280104	01.0159	300012	01.2719	310039	01.2397	310112	01.1456
280040	01.4828	280105	01.1637	300013	01.2084	310040	01.1909	310113	01.2440
280041	00.9808	280106	00.9970	300014	01.2600	310041	01.2378	310115	01.1588

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
310116	01.2249	330001	01.1604	330056	01.2180	330143	01.0258	330213	CASE MIX
310118	01.2024	330002	01.4613	330057	01.2322	330151	01.1189	330214	01.1301
310119	01.2507	330003	01.2705	330072	01.2739	330152	01.3860	330215	01.6420
310120	01.0551	330004	01.2371	330073	01.1854	330153	01.3347	330216	01.2017
310121	01.0326	330005	01.5527	330074	01.2196	330154	01.3600	330218	01.2108
320001	01.3484	330006	01.3542	330075	01.0820	330155	01.1610	330219	01.4553
320002	01.2262	330007	01.2404	330078	01.3584	330156	01.2557	330221	01.2764
320003	01.2386	330008	01.1420	330079	01.1831	330157	01.2557	330222	01.2195
320004	01.1795	330009	01.2257	330080	01.2853	330158	01.2750	330223	01.1185
320005	01.2736	330010	01.2050	330082	01.2161	330159	01.3263	330224	01.2776
320006	01.1685	330011	01.1684	330084	01.0013	330161	01.1204	330225	01.2375
320009	01.2598	330012	01.5799	330085	01.3565	330162	01.2304	330226	01.2587
320010	01.2848	330013	01.8604	330086	01.2050	330163	01.1464	330228	01.2375
320011	01.0229	330014	01.2966	330088	01.2073	330164	01.3619	330230	01.4455
320012	00.9775	330015	01.3678	330089	01.6336	330165	00.9744	330231	01.1528
320013	01.0530	330016	01.0349	330091	01.3181	330166	01.4248	330232	01.2323
320014	00.9311	330019	01.2499	330092	00.9787	330167	01.4248	330233	01.4944
320016	01.1035	330020	01.0454	330094	01.2865	330168	01.0485	330234	01.7879
320017	01.0815	330022	01.0088	330095	01.2347	330169	01.3015	330235	01.1896
320018	01.2068	330023	01.2371	330096	01.1457	330171	01.2554	330236	01.3051
320019	01.3846	330024	01.6134	330097	01.2244	330174	00.8043	330238	01.1390
320021	01.6249	330025	01.1279	330100	00.6814	330175	01.0652	330239	01.1371
320022	01.2058	330027	01.3857	330101	01.6171	330176	00.8875	330240	01.1365
320023	01.0529	330028	01.2879	330102	01.2353	330177	01.0883	330241	01.5885
320030	01.0915	330029	01.1384	330103	01.1612	330179	00.9181	330242	01.3402
320031	00.9350	330030	01.1421	330104	01.3769	330180	01.2485	330244	01.0518
320032	00.9444	330033	01.2769	330106	01.5394	330181	01.2469	330245	01.3219
320033	01.0883	330034	01.2433	330107	01.2920	330182	02.1266	330246	01.1449
320035	01.0568	330036	01.2741	330108	01.2740	330183	01.3794	330247	00.5962
320037	01.2096	330037	01.1024	330110	01.0006	330184	01.2839	330249	01.2242
320038	01.1325	330038	01.0925	330111	01.1140	330185	01.1777	330250	01.2481
320046	00.9654	330039	00.9060	330114	01.0160	330186	01.1511	330252	00.9245
320048	01.3297	330041	01.4389	330115	01.1818	330188	01.1454	330254	01.0337
320053	00.9568	330043	01.2580	330116	01.0055	330189	00.7829	330258	01.3374
320056	00.8670	330044	01.2231	330118	01.5088	330191	01.2484	330259	01.2119
320057	01.0371	330045	01.2353	330119	01.4098	330193	01.4347	330261	01.2596
320058	00.8040	330046	01.4685	330121	01.1307	330194	01.6189	330263	01.0700
320059	00.9993	330047	01.2689	330122	01.2390	330195	01.6510	330264	01.1428
320060	00.9262	330048	01.2362	330125	01.7030	330196	01.3717	330265	01.2697
320061	01.1730	330049	01.2879	330126	01.0350	330197	01.0350	330267	01.2241
320062	00.8389	330053	01.0724	330127	01.1967	330198	01.2593	330268	01.1183
320063	01.2070	330055	01.2523	330128	01.2042	330199	01.2228	330270	01.9199
320065	01.1734	330056	01.2469	330129	01.2495	330201	01.4661	330273	01.2008
320067	00.8968	330058	01.5360	330132	01.1192	330202	01.1658	330275	01.1883
320068	00.9231	330059	01.3360	330133	01.3047	330203	01.3878	330276	01.2637
320069	01.0997	330059	01.4615	330135	01.2546	330204	01.1776	330277	01.1035
320070	00.8969	330061	01.3245	330136	01.2451	330205	01.1252	330279	01.2338
320074	01.0311	330062	01.1406	330140	01.5836	330208	01.1605	330281	00.5860
320076	01.1262	330064	01.3295	330141	01.1990	330209	01.1797	330285	01.6743
320079	01.0518	330065	01.2130	330142	01.2543	330211	01.2178	330286	01.2651
				330144	01.0237	330212	01.1780	330288	01.1183

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
330290	01.4920	340003	01.1488	340064	01.0904	340132	01.3387	350025	01.0170
330293	01.1398	340004	01.3490	340065	01.1004	340133	01.1869	350027	01.0082
330304	01.2178	340005	01.2078	340067	01.1176	340135	01.1806	350029	00.9285
330306	01.3604	340006	01.1705	340068	01.2728	340136	01.0028	350030	01.0858
330307	01.1550	340007	01.1163	340069	01.7090	340137	01.3059	350031	00.9860
330308	01.3368	340008	01.2481	340070	01.2923	340138	01.2438	350032	01.0338
330309	01.2200	340009	01.1599	340071	01.0744	340139	01.4582	350033	00.9516
330314	01.2060	340010	01.2522	340072	01.0510	340141	01.1584	350034	00.9631
330315	01.1574	340011	01.0051	340073	01.2850	340142	01.3302	350035	00.8956
330316	01.2411	340012	01.0501	340075	01.2038	340144	01.2409	350036	00.9014
330327	00.9372	340013	01.2272	340076	01.0166	340145	01.2257	350038	00.9381
330331	01.2311	340014	01.5391	340080	01.0886	340146	01.0201	350039	00.9321
330332	01.2528	340015	01.2744	340084	01.0168	340147	01.2615	350041	01.0101
330333	01.2821	340016	01.1385	340085	01.2399	340148	01.3249	350042	00.9018
330335	01.0161	340017	01.1992	340087	01.1443	340151	01.1412	350043	01.1933
330336	01.2564	340018	01.1482	340088	01.1433	340153	01.8677	350044	00.8958
330338	01.1727	340019	01.1222	340089	00.9616	340154	00.8768	350047	01.0471
330339	00.9881	340020	01.2013	340090	01.1260	340155	01.4573	350049	01.1179
330340	01.0819	340021	01.2253	340091	01.5983	340156	00.8608	350050	00.9639
330350	01.6712	340022	01.0844	340093	01.0867	340158	01.0805	350051	00.9949
330351	01.1294	340023	01.3126	340094	01.3779	340159	01.2061	350053	01.0001
330353	01.2313	340024	01.2882	340096	01.1350	340160	01.0586	350055	00.8679
330354	01.1516	340025	01.1283	340097	01.0144	340162	01.3110	350056	00.8531
330357	01.2784	340027	01.1215	340098	01.5007	340164	01.2888	350058	00.9941
330359	00.9614	340028	01.3405	340099	01.1284	340166	01.3745	350060	00.9174
330362	00.7303	340030	01.7023	340100	01.2270	340167	00.5930	350061	01.0355
330363	00.7087	340031	01.0532	340101	00.9797	340168	00.5473	350063	00.8745
330366	00.6818	340032	01.3085	340104	00.8755	350001	01.0717	350064	00.8220
330357	00.6319	340034	01.2639	340105	01.3495	350002	01.6581	350065	01.0058
330368	00.6286	340035	01.1033	340106	01.0880	350003	01.0937	350066	00.8432
330369	00.6430	340036	01.0817	340107	01.2535	350004	01.8663	350067	00.8428
330371	00.7276	340037	01.1414	340109	01.3031	350005	01.0912	380001	01.1894
330372	01.1992	340038	01.2118	340111	01.1789	350006	01.3240	380002	01.1342
330373	00.5775	340039	01.2111	340112	00.9545	350007	00.9808	380003	01.4240
330381	01.2105	340040	01.6917	340113	01.9153	350008	00.9467	380006	01.8203
330383	01.3009	340041	01.2319	340114	01.3693	350009	01.1908	380007	01.1178
330385	01.2120	340042	01.2327	340115	01.3170	350010	01.0937	380008	01.1882
330386	01.3194	340044	01.0231	340116	01.6310	350011	01.7035	380009	01.2438
330387	00.8936	340045	00.8328	340118	01.2206	350012	01.0124	380010	01.1878
330388	01.7344	340047	01.7370	340120	01.0785	350013	01.0328	380011	01.2483
330390	01.1251	340049	00.6489	340121	01.0238	350014	01.0567	380012	01.3263
330393	01.5305	340050	01.2019	340122	01.0108	350015	01.6270	380013	01.0701
330394	01.3477	340051	01.2729	340123	01.1974	350016	01.0680	380014	01.1458
330395	01.3514	340052	00.9692	340124	01.1009	350017	01.2492	380015	01.3998
330396	01.1545	340053	01.5728	340125	01.4813	350018	00.9915	380016	01.3719
330397	01.3622	340054	01.1016	340126	01.2620	350019	01.5134	380017	01.6487
330398	01.2769	340055	01.1826	340127	01.2045	350020	01.3043	380018	01.3104
330399	01.3648	340060	01.1915	340129	01.1186	350021	01.0570	380019	01.1787
340001	01.2450	340061	01.5319	340130	01.3042	350023	00.9465	380020	01.2261
340002	01.7414	340063	01.1186	340131	01.3595	350024	00.9591	380021	01.2093

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
360024	01.2092	360078	01.2327	360133	01.3815	360187	01.0851	370039	01.2476
360025	01.1595	360079	01.5544	360134	01.4710	360200	01.2023	370040	01.0748
360026	01.1299	360080	01.1910	360135	01.1249	360203	01.1347	370041	00.9874
360027	01.4601	360081	01.2412	360136	01.0514	360204	01.2140	370042	00.8751
360028	01.2351	360082	01.3203	360137	01.4404	360210	01.1855	370043	00.9969
360029	01.0679	360083	01.2101	360139	01.0358	360211	01.0937	370045	01.0599
360030	01.1541	360084	01.4309	360140	01.0571	360212	01.4241	370046	01.0969
360031	01.1759	360085	01.6056	360141	01.3478	360213	01.0860	370047	01.1839
360032	01.1399	360086	01.2828	360142	01.0494	360218	01.2985	370048	01.1247
360034	01.0880	360087	01.2978	360143	01.1749	360230	01.3015	370049	01.2250
360035	01.4090	360088	01.1621	360144	01.2721	360231	01.0929	370050	00.8754
360036	01.1583	360089	01.0651	360145	01.4890	360232	01.0613	370051	01.1182
360037	01.7251	360090	01.1919	360147	01.2233	360234	01.2288	370056	01.3552
360038	01.4332	360091	01.3599	360148	01.1435	360236	00.9462	370057	01.0942
360039	01.2007	360092	01.1432	360150	01.2563	360239	01.2023	370059	01.3532
360040	01.2104	360093	01.1310	360151	01.2503	360240	00.7358	370060	00.9500
360041	01.2026	360094	01.1907	360152	01.4382	360241	00.6897	370063	01.0410
360042	01.1180	360095	01.2561	360154	01.1807	370001	01.6745	370064	00.9220
360044	01.0702	360098	01.0963	360155	01.0308	370002	01.1974	370065	01.1227
360045	01.3912	360099	01.0892	360156	01.1732	370004	01.0515	370068	01.0049
360046	01.0653	360100	01.2615	360158	01.1309	370005	00.9616	370071	00.9544
360047	01.0653	360101	01.5037	360159	01.1729	370006	01.2371	370072	00.9500
360048	01.6263	360102	01.2205	360161	01.2518	370007	01.1407	370076	01.1135
360049	01.2514	360103	01.2815	360162	01.1885	370008	01.2105	370077	01.2618
360050	01.2433	360104	00.9080	360163	01.6004	370011	00.9337	370078	01.4199
360051	01.4054	360106	01.2191	360164	01.0862	370012	00.9231	370079	00.8452
360052	01.5029	360107	01.0480	360165	01.0494	370013	01.3284	370080	00.9425
360053	01.2554	360108	01.0670	360166	01.0198	370014	01.1923	370082	00.9895
360054	01.2700	360109	01.0435	360168	00.9088	370015	01.0958	370083	01.0014
360055	01.1703	360110	01.0886	360169	01.0384	370016	01.2882	370084	00.8872
360056	01.2599	360112	01.4436	360170	01.0579	370017	01.0035	370085	00.8995
360057	00.9284	360113	01.2399	360172	01.2880	370018	01.1945	370086	01.0925
360058	01.0885	360114	01.1015	360174	01.1383	370019	01.0511	370089	01.2894
360059	01.3644	360115	01.1825	360175	01.1639	370020	01.2640	370091	01.4857
360061	01.2422	360116	01.0635	360176	01.1752	370021	00.8997	370092	01.0616
360062	01.4202	360118	01.2356	360177	01.1135	370022	01.2423	370093	01.4962
360063	01.0759	360119	01.1059	360178	01.1576	370023	01.1897	370094	01.2221
360064	01.4267	360120	00.9058	360179	01.2682	370025	01.2479	370095	00.9488
360065	01.2244	360121	01.1169	360180	01.8930	370026	01.2803	370097	01.2670
360066	01.2203	360122	01.2984	360184	00.7133	370028	01.5059	370099	01.1407
360067	01.2405	360123	01.1591	360185	01.1962	370029	01.2180	370100	01.0278
360068	01.3474	360124	01.1549	360186	01.0957	370030	01.2729	370103	00.9649
360069	01.0333	360125	01.1148	360188	01.3389	370032	01.3035	370105	01.8571
360070	01.2604	360126	01.1861	360187	01.0160	370033	01.2016	370106	01.2992
360071	01.1762	360127	00.9861	360188	01.1289	370034	01.1365	370107	01.0583
360072	01.2454	360128	01.0577	360189	01.1841	370035	01.3771	370108	00.9497
360074	01.2873	360129	01.0448	360192	01.2171	370036	01.1271	370110	00.9807
360075	01.3806	360130	01.1130	360193	01.1134	370037	01.4744	370112	00.9681
360076	01.2263	360131	01.2592	360194	01.1134	370038	00.9515	370113	01.1052
360077	01.3599	360132	01.1938	360195	01.1519				

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS
CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
390158	01.2243	390222	01.2171	400014	01.3505	410010	00.9124	420064	01.1187
390159	01.2140	390223	01.5047	400015	01.1365	410011	01.1801	420065	01.2517
390160	01.1769	390224	00.9811	400016	01.2627	410012	01.5327	420066	01.0213
390161	01.0914	390225	01.2827	400017	01.0622	410013	01.1833	420067	01.1028
390162	01.2382	390226	01.4888	400018	01.2254	410014	00.9134	420068	01.1528
390163	01.1503	390228	01.2181	400019	01.1376	420002	01.3013	420069	01.0138
390164	01.6259	390229	01.3698	400021	01.2733	420003	00.9367	420070	01.2315
390165	01.0831	390231	01.3006	400022	01.2832	420004	01.7448	420071	01.2638
390166	01.1464	390232	01.0977	400024	01.0288	420005	01.0703	420072	01.0011
390167	01.2316	390233	01.2529	400026	00.9517	420006	01.3094	420073	01.3255
390168	01.1194	390234	01.2858	400027	01.0581	420007	01.4283	420074	00.9135
390169	01.2384	390235	01.7857	400028	01.0293	420009	01.2785	420075	01.0920
390170	01.5573	390236	01.1570	400029	01.0299	420010	01.0732	420076	01.0923
390171	01.1148	390237	01.4684	400031	01.0105	420011	01.0754	420078	01.5188
390172	01.1715	390238	00.8573	400032	01.1693	420014	01.1047	420079	01.5108
390173	01.1270	390242	01.2240	400037	00.8707	420015	01.1889	420080	01.1425
390174	01.4840	390244	00.8920	400038	00.9768	420016	01.1198	420081	00.5535
390176	01.1609	390245	01.2522	400044	01.1247	420018	01.5388	420082	01.3067
390178	01.3465	390246	01.2052	400048	01.1512	420019	01.1552	420083	01.1709
390179	01.2448	390247	01.0946	400061	01.8090	420020	01.1553	420084	00.7848
390180	01.2832	390249	01.0545	400079	01.1483	420022	01.0784	420085	01.2174
390181	01.0638	390252	00.7808	400087	01.1954	420023	01.2424	420086	01.2867
390183	01.1032	390256	01.5786	400088	00.7460	420026	01.7727	420087	01.3511
390184	01.2088	390258	01.1985	400089	01.0988	420027	01.2087	420088	01.1449
390185	01.1768	390260	01.1839	400094	00.8478	420028	01.0279	420089	01.2480
390188	01.0831	390261	01.7298	400098	01.2271	420029	01.8137	430004	01.1487
390187	01.1110	390262	01.6857	400102	01.1359	420030	01.1540	430005	01.2631
390189	01.1124	390263	01.5041	400103	01.4115	420032	00.8981	430006	01.1531
390191	01.0880	390265	01.2125	400104	01.1911	420033	00.8541	430008	01.1914
390192	01.1002	390266	01.1275	400105	01.2434	420035	00.8541	430009	01.1582
390193	01.2312	390267	01.2174	400106	01.0499	420036	01.2574	430010	01.1006
390194	01.0845	390268	01.1849	400109	01.3938	420037	01.2670	430011	01.2278
390195	01.4821	390270	01.2705	400110	01.2210	420038	01.0987	430012	01.2434
390196	01.2435	390272	00.5599	400111	01.1900	420039	01.085	430013	01.1503
390197	01.2698	390275	00.5906	400112	01.2371	420040	01.2284	430014	01.2373
390198	01.2185	390277	01.4352	400113	01.1805	420042	01.0945	430015	01.0421
390199	01.2781	390278	00.7567	400114	01.0288	420043	01.1321	430016	01.8299
390200	01.0165	400001	01.1103	400115	01.0542	420044	01.2019	430017	01.0829
390201	01.2829	400002	01.2859	400116	01.0815	420048	01.0548	430018	00.9350
390203	01.2623	400003	01.1156	400117	01.1484	420049	01.0668	430022	00.8433
390204	01.2360	400004	01.1430	400118	01.1771	420051	01.4405	430023	00.9215
390205	01.2315	400005	01.0444	400120	01.2942	420053	01.1325	430024	01.0441
390206	01.2953	400006	01.1851	410001	01.2674	420055	01.0321	430025	00.9273
390209	00.9962	400007	01.0846	410002	01.1750	420056	01.1117	430026	00.8974
390211	01.1556	400008	01.0878	410004	01.3304	420057	01.0780	430027	01.6158
390213	00.9965	400009	00.9720	410005	01.2836	420059	01.0664	430028	01.0640
390215	01.2023	400010	01.0424	410006	01.2069	420061	01.4775	430029	00.9061
390217	01.1324	400011	01.0628	410007	01.4775	420062	01.2613	430031	00.9825
390219	01.2066	400012	00.9873	410008	01.1469	420063	01.1659	430033	01.0040
390220	01.1821	400013	00.8188	410009	01.2755	420064	01.1659	430034	01.1352

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
450113	01.1825	450187	01.2330	450276	01.1252	450381	00.9060
450115	01.1115	450188	00.9598	450278	00.9435	450388	01.5520
450118	01.4449	450190	01.2459	450280	01.2642	450389	01.2692
450119	01.2277	450191	01.0913	450283	01.0812	450393	01.2579
450121	01.3084	450192	01.0875	450286	01.0669	450394	01.1752
450123	01.0543	450193	02.1032	450288	01.1737	450395	01.0776
450124	01.4512	450194	01.1326	450289	01.2791	450399	01.1255
450126	01.1810	450195	01.4021	450292	01.2159	450400	01.1428
450127	00.9163	450196	01.1853	450293	00.9838	450403	01.2346
450128	01.2320	450197	01.2130	450296	01.1734	450410	01.1001
450130	01.3809	450200	01.2327	450297	01.0038	450411	01.0490
450131	01.1597	450201	01.0007	450299	01.4190	450417	01.0205
450132	01.4893	450203	01.2001	450303	00.9085	450418	01.3841
450133	01.4033	450207	01.2221	450306	01.0442	450419	01.2957
450135	01.5280	450208	01.2472	450307	01.1384	450422	00.7786
450137	01.2390	450209	01.0283	450315	01.2657	450423	01.4055
450140	00.9813	450210	01.2798	450320	01.2931	450424	01.2111
450141	01.0682	450211	01.3465	450321	00.9220	450429	00.9970
450142	01.3465	450213	01.3248	450322	00.8769	450431	01.4383
450143	01.0190	450214	00.8226	450324	01.5407	450438	01.0735
450144	01.1634	450217	00.9664	450325	01.2957	450446	00.8430
450145	01.0404	450218	01.1500	450327	01.0494	450447	01.2985
450146	01.0841	450219	01.0218	450330	01.1319	450450	01.0704
450147	01.2877	450221	01.0623	450331	00.9664	450451	01.1144
450148	01.3421	450222	01.5456	450334	01.0346	450457	01.5169
450149	01.3715	450224	01.0623	450337	01.1379	450462	01.3943
450150	00.9513	450229	01.4117	450340	01.2750	450464	00.9192
450151	01.0760	450231	01.5376	450341	00.9573	450465	01.1380
450152	01.3804	450233	01.0647	450346	01.3127	450467	01.0187
450153	01.4338	450234	00.8731	450347	01.2454	450469	01.2376
450154	01.2035	450235	01.0859	450348	00.9788	450472	01.0182
450155	01.1394	450236	01.1628	450349	01.2091	450473	01.1160
450157	01.0008	450237	01.4677	450351	01.2876	450475	01.1211
450160	00.8656	450239	01.1417	450352	01.2795	450476	00.9588
450162	01.5041	450241	00.8969	450353	01.1572	450484	01.4276
450163	01.1997	450243	01.0236	450355	00.8981	450486	01.0006
450164	00.9028	450246	01.0138	450358	01.8314	450488	01.1014
450165	00.9528	450249	00.8286	450362	00.9923	450489	01.0343
450166	00.9864	450250	00.9232	450365	00.9319	450492	00.8598
450169	00.8716	450253	01.1223	450366	01.6535	450497	01.1274
450170	01.1650	450256	01.0214	450369	01.1754	450498	00.9934
450175	01.2870	450258	01.0777	450370	01.1927	450508	01.4748
450176	01.2552	450259	01.2915	450371	01.1533	450514	01.1036
450177	01.0843	450264	00.8619	450372	01.3189	450517	00.9567
450178	01.0315	450268	01.1685	450373	01.1644	450518	01.2561
450179	00.9994	450269	00.9365	450376	00.8389	450523	01.4431
450181	00.9571	450270	01.1054	450378	01.4631	450530	01.3085
450183	01.1893	450271	01.1209	450379	01.3344	450534	01.0273
450184	01.3878	450272	01.1754	450381	01.5224	450535	01.2819
450185	01.0654	450275	01.0067				

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX	PROVIDER	CASE MIX
450638	01.4458	450709	01.2011	450007	01.2330	490001	01.1135	490088	01.0742
450639	01.5224	450711	01.5325	450008	01.2583	490002	01.0614	490087	01.2112
450641	00.8960	450712	00.6178	450009	01.7190	490003	00.6207	490086	01.3075
450643	01.1838	450713	01.2315	450010	01.9523	490004	01.1541	490071	01.2567
450644	01.7831	450715	01.3591	450011	01.2512	490005	01.4026	490073	01.1249
450646	01.3465	450716	01.1740	450013	01.3396	490006	01.1855	490074	01.2820
450647	01.9723	450717	01.2684	450014	01.0043	490007	01.7953	490075	01.1973
450648	01.1289	450718	01.1160	450015	01.2411	490008	01.1157	490077	01.1931
450649	01.0041	450719	01.2291	450016	00.9082	490009	01.5749	490079	01.2047
450651	01.6674	450723	01.2760	450017	01.2056	490010	01.2429	490083	00.7832
450652	00.9142	450724	01.2244	450018	00.9287	490011	01.2259	490084	01.1103
450653	01.2288	450725	00.9363	450019	00.9800	490012	01.0478	490085	01.1280
450654	00.9260	450726	00.8827	450020	01.0134	490013	01.1399	490088	01.0883
450656	01.2548	450727	01.0036	450021	01.3738	490014	01.4979	490089	01.0452
450658	01.0353	450728	00.8658	450022	00.9712	490015	01.3628	490090	01.1418
450659	01.3582	450729	00.8710	450023	01.0931	490017	01.2620	490091	01.2245
450660	01.4831	450730	01.3778	450024	00.9899	490018	01.1370	490092	01.1258
450661	01.2440	450732	01.1220	450025	00.8826	490019	01.1175	490093	01.2582
450662	01.2331	450733	01.3539	450026	00.8672	490020	01.0716	490094	01.0980
450665	00.9825	450734	01.1089	450027	00.9252	490021	01.3331	490095	01.2763
450666	01.1955	450735	00.8700	450029	00.9737	490022	01.1787	490097	01.1489
450667	01.0568	450737	00.5697	450030	01.0435	490023	01.2181	490098	01.3134
450668	01.4432	450742	01.2869	450032	00.9562	490024	01.5803	490099	00.9355
450669	01.3449	450743	01.3417	450033	00.8486	490027	01.0743	490100	01.2552
450670	01.1934	450744	00.9526	450035	00.8976	490028	01.2400	490101	01.0842
450672	01.5095	450745	00.7559	450036	00.9342	490029	01.1182	490104	00.8677
450673	00.9167	450746	00.9555	450037	00.9680	490030	01.2796	490105	00.8034
450674	00.8559	450747	01.1706	450039	00.9627	490031	01.0377	490106	00.7948
450675	01.2586	450749	01.0530	450041	01.1992	490032	01.5385	490107	01.1455
450677	01.2539	450750	00.9573	450042	01.3554	490033	01.2231	490108	00.8741
450678	01.4268	450751	01.1623	450043	01.2123	490035	01.1330	490109	00.8312
450681	01.5271	450753	01.1280	450044	01.2027	490037	01.1055	490110	01.1058
450682	01.2719	450754	00.8918	450046	00.9879	490038	01.2707	490111	01.1358
450683	01.2920	450755	00.9681	450047	01.6770	490040	01.3061	490112	01.4434
450684	01.3634	450757	00.9463	470001	01.1340	490041	01.1610	490113	01.1974
450685	01.3259	450758	01.2820	470003	01.8027	490042	01.2323	490114	01.0138
450686	01.3355	450759	00.9929	470004	01.1935	490043	01.1800	490115	01.1660
450688	01.1918	450760	01.2583	470005	01.2113	490044	01.2564	490116	01.1178
450689	01.2674	450761	00.8626	470006	01.1893	490045	01.1176	490117	01.0368
450691	01.4182	450763	01.0988	470008	01.1672	490046	01.3452	490118	01.6468
450694	01.1214	450764	01.7971	470010	01.0026	490047	01.1705	490119	01.3163
450696	01.0772	450765	01.0303	470011	01.1978	490048	01.2539	490120	01.3001
450697	01.4277	450766	01.4706	470012	01.2788	490050	01.2454	490122	01.1776
450698	00.8446	450767	00.9168	470013	01.0921	490052	01.3854	490123	01.0828
450700	00.8969	450768	01.1763	470015	01.2009	490053	01.1972	490124	01.2707
450702	01.2532	480001	01.5494	470016	01.0934	490054	01.0926	490126	01.1618
450703	01.2820	480003	01.4277	470018	01.1241	490057	01.2100	490127	01.0585
450704	01.2326	460004	01.5815	470020	00.9332	490059	01.3798	490129	00.6657
450705	00.8108	480005	01.2808	470023	01.2211	490060	01.0869	490130	01.1879
450706	01.2463	480006	01.3422	470024	01.1227	490063	01.5034	490131	00.9166

NOTE : CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

TABLE 3C : HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1990

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PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX	PROVIDER CASE MIX
520114 01.1263	530008 01.0612		
520115 01.3094	530009 00.9084		
520116 01.1454	530010 01.1537		
520117 01.0443	530011 01.1589		
520118 00.9459	530012 01.6071		
520120 01.0266	530014 01.0834		
520121 01.0149	530015 01.0478		
520122 01.0149	530016 01.0802		
520123 00.9753	530017 01.0214		
520124 01.0825	530018 01.1228		
520130 01.0020	530019 00.9784		
520131 01.1114	530022 01.0822		
520132 01.2163	530023 00.8722		
520134 01.1462	530024 00.9485		
520135 00.9816	530025 01.1972		
520136 01.4237	530026 01.0122		
520138 01.7075	530027 00.9336		
520139 01.2306	530028 00.9014		
520140 01.3368	530031 01.0070		
520141 01.1332			
520142 00.9341			
520144 00.9953			
520145 01.0074			
520146 01.1136			
520148 01.1327			
520149 01.1407			
520151 01.0792			
520152 01.1208			
520153 01.1186			
520154 01.1229			
520156 01.0536			
520157 01.0428			
520159 00.9269			
520160 01.7232			
520161 01.1198			
520170 01.2088			
520171 00.9788			
520173 01.0720			
520174 01.3858			
520176 00.8335			
520177 01.4220			
520178 01.1378			
520180 00.6410			
530001 01.2547			
530002 01.2136			
530003 00.9593			
530004 00.9913			
530005 01.0419			
530006 01.1370			
530007 01.0510			

NOTE: CASE MIX INDEXES DO NOT INCLUDE DISCHARGES FROM PPS-EXEMPT UNITS.

: CASE MIX INDEXES INCLUDE CASES RECEIVED IN HCFA CENTRAL OFFICE THROUGH DECEMBER 1990

BILLING CODE 4120-03-C

TABLE 4A.—WAGE INDEX FOR URBAN AREAS

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Abilene, TX	0.9442
Taylor, TX	
Aguadilla, PR	0.4574
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	0.9386
Portage, OH	
Summit, OH	
Albany, GA	0.8061
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	0.8935
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.0138
Bernalillo, NM	
Alexandria, LA	0.8287
Rapides, LA	
Allentown-Bethlehem-Easton, PA-NJ	0.9458
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	0.9251
Blair, PA	
Amarillo, TX	0.8782
Potter, TX	
Randall, TX	
*Anaheim-Santa Ana, CA	1.1825
Orange, CA	
Anchorage, AK	1.4196
Anchorage, AK	
Anderson, IN	1.0127
Madison, IN	
Anderson, SC	0.7268
Anderson, SC	
Ann Arbor, MI	1.1400
Washtenaw, MI	
Annisston, AL	0.7942
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	0.9233
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
Arecibo, PR	0.3959
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
Quebradillas, PR	
Asheville, NC	0.8751
Buncombe, NC	
Athens, GA	0.8220
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
*Atlanta, GA	0.9609
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0521
Atlantic, NJ	
Cape May, NJ	
Augusta, GA-SC	0.9414
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	0.9604
Kane, IL	
Kendall, IL	
Austin, TX	0.9612
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.0883
Kern, CA	
*Baltimore, MD	1.0170
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	0.9076
Penobscot, ME	
Baton Rouge, LA	0.9101
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	0.9112
Calhoun, MI	
Beaumont-Port Arthur, TX	0.9617
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0179
Beaver, PA	
Bellingham, WA	1.0511
Whatcom, WA	
Benton Harbor, MI	0.7717
Berrien, MI	
*Bergen-Passaic, NJ	1.0310
Bergen, NJ	
Passaic, NJ	
Billings, MT	0.9338
Yellowstone, MT	
Biloxi-Gulfport, MS	0.8073
Hancock, MS	
Harrison, MS	
Binghamton, NY	0.9273
Broome, NY	
Tioga, NY	
Birmingham, AL	0.8782
Blount, AL	
Jefferson, AL	
Saint Clair, AL	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Shelby, AL	
Walker, AL	
Bismarck, ND	0.8825
Burleigh, ND	
Morton, ND	
Bloomington, IN	0.7815
Monroe, IN	
Bloomington-Normal, IL	0.8671
McLean, IL	
Boise City, ID	1.0125
Ada, ID	
*Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1826
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.0163
Boulder, CO	
Bradenton, FL	0.8833
Manatee, FL	
Brazoria, TX	0.9199
Brazoria, TX	
Bremerton, WA	(1)
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury, CT	1.2049
Fairfield, CT	
Brownsville-Harlingen, TX	0.8613
Cameron, TX	
Bryan-College Station, TX	0.9502
Brazos, TX	
Buffalo, NY	0.8921
Erie, NY	
Burlington, NC	(1)
Alamance, NC	
Burlington, VT	0.9371
Chittenden, VT	
Grand Isle, VT	
Caguas, PR	0.4594
Caguas, PR	
Gurabo, PR	
San Lorenzo, PR	
Agua Buenas, PR	
Cayey, PR	
Cidra, PR	
Canton, OH	0.8108
Carroll, OH	
Stark, OH	
Casper, WY	0.8903
Natrona, WY	
Cedar Rapids, IA	(1)
Linn, IA	
Champaign-Urbana-Rantoul, IL	0.8757
Champaign, IL	
Charleston, SC	0.8343
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	0.9706
Kanawha, WV	
Putnam, WV	
*Charlotte-Gastonia-Rock Hill, NC-SC	0.9499
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	0.9628

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN-GA	0.9211
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	0.7919
Laramie, WY	
*Chicago, IL	1.0532
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.0631
Butte, CA	
*Cincinnati, OH-KY-IN	0.9834
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN-KY	0.7330
Christian, KY	
Montgomery, TN	
*Cleveland, OH	1.0754
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	0.9830
El Paso, CO	
Columbia, MO	0.9520
Boone, MO	
Columbia, SC	0.8953
Lexington, SC	
Richland, SC	
Columbia, GA-AL	0.7581
Russell, AL	
Chattahoochee, GA	
Muscogee, GA	
*Columbus, OH	0.9687
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	0.8606
Nueces, TX	
San Patricio, TX	
Cumberland, MD-WV	0.8199
Allegeny, MD	
Mineral, WV	
*Dallas, TX	0.9378
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	0.7517
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA-IL	0.8482
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	0.9533

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	0.8956
Volusia, FL	
Decatur, AL	0.7497
Lawrence, AL	
Morgan, AL	
Decatur, IL	0.8298
Macon, IL	
*Denver, CO	1.0773
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	0.9184
Dallas, IA	
Polk, IA	
Warren, IA	
*Detroit, MI	1.0843
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	0.7580
Dale, AL	
Houston, AL	
Dubuque, IA	0.8386
Dubuque, IA	
Duluth, MN-WI	0.9531
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	0.8499
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	0.8726
El Paso, TX	
Elkhart-Goshen, IN	0.8593
Elkhart, IN	
Elmira, NY	0.8823
Chemung, NY	
Enid, OK	0.8925
Garfield, OK	
Erie, PA	0.9168
Erie, PA	
Eugene-Springfield, OR	1.0178
Lane, OR	
Evansville, IN-KY	0.9289
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND-MN	0.9720
Clay, MN	
Cass, ND	
Fayetteville, NC	0.8307
Cumberland, NC	
Fayetteville-Springdale, AR	0.8001
Washington, AR	
Flint, MI	1.1560
Genesee, MI	
Florence, AL	0.7892
Colbert, AL	
Lauderdale, AL	
Florence, SC	0.8440
Florence, SC	
Fort Collins-Loveland, CO	1.0252
Larimer, CO	
*Fort Lauderdale-Hollywood-Pompano Beach, FL	1.0388

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Broward, FL	
Fort Myers-Cape Coral, FL	0.9813
Lee, FL	
Fort Pierce, FL	1.1056
Martin, FL	
St. Lucie, FL	
Fort Smith, AR-OK	0.7943
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	0.8954
Okaloosa, FL	
Fort Wayne, IN	0.8914
Allen, IN	
De Kalb, IN	
Whitley, IN	
*Fort Worth-Arlington, TX	0.9537
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.0752
Fresno, CA	
Gadsden, AL	0.8210
Etowah, AL	
Gainesville, FL	0.8811
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	0.9444
Galveston, TX	
Gary-Hammond, IN	0.9853
Lake, IN	
Porter, IN	
Glens Falls, NY	0.9477
Warren, NY	
Washington, NY	
Grand Forks, ND	0.9591
Grand Forks, ND	
Grand Rapids, MI	0.9897
Kent, MI	
Ottawa, MI	
Great Falls, MT	1.0006
Cascade, MT	
Greeley, CO	0.9371
Weld, CO	
Green Bay, WI	0.9599
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	0.8764
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	0.8916
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	0.9170
Washington, MD	
Hamilton-Middletown, OH	0.9166
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	0.9932
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
*Hartford-Middletown-New Britain-Bristol, CT	1.1933
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	0.8814

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.1597
Honolulu, HI	
Houma-Thibodaux, LA	0.7189
Lafourche, LA	
Terrebonne, LA	
*Houston, TX	0.9793
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV-KY-OH	0.9451
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	0.8847
Madison, AL	
*Indianapolis, IN	0.9580
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	0.9541
Johnson, IA	
Jackson, MI	0.8838
Jackson, MI	
Jackson, MS	0.7744
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	0.7984
Madison, TN	
Jacksonville, FL	0.9063
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	0.7164
Onslow, NC	
Jamestown-Dunkirk, NY	0.7394
Chataqua, NY	
Janesville-Beloit, WI	0.6739
Rock, WI	
Jersey City, NJ	1.0541
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN-VA	0.8680
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	0.8866
Cambria, PA	
Somerset, PA	
Joliet, IL	1.0293
Grundy, IL	
Will, IL	
Joplin, MO	0.7892
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.1726

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Kalamazoo, MI	
Kankakee, IL	0.8500
Kankakee, IL	
*Kansas City, KS-MO	0.9802
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	0.8867
Kenosha, WI	
Killeen-Temple, TX	1.1311
Bell, TX	
Coryell, TX	
Knoxville, TN	0.8705
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	0.9449
Howard, IN	
Tipton, IN	
LaCrosse, WI	0.8968
LaCrosse, WI	
Lafayette, LA	0.8257
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	0.8444
Tippecanoe, IN	
Lake Charles, LA	0.8386
Calcasieu, LA	
Lake County, IL	0.9932
Lake, IL	
Lakeland-Winter Haven, FL	0.8182
Polk, FL	
Lancaster, PA	0.9271
Lancaster, PA	
Lansing-East Lansing, MI	1.0237
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX	0.7288
Webb, TX	
Las Cruces, NM	0.7920
Dona Ana, NM	
Las Vegas, NV	1.0846
Clark, NV	
Lawrence, KS	0.8949
Douglas, KS	
Lawton, OK	0.8400
Comanche, OK	
Lewiston-Auburn, ME	0.9070
Androscoggin, ME	
Lexington-Fayette, KY	0.8458
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	0.8103
Allen, OH	
Auglaize, OH	
Lincoln, NE	0.8968
Lancaster, NE	
Little Rock-North Little Rock, AR	0.8432

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	0.8703
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	0.8952
Lorain, OH	
*Los Angeles-Long Beach, CA	1.2372
Los Angeles, CA	
Louisville, KY-IN	0.9104
Clark, IN	
Floyd, IN	
Harrison, IN	
Bullitt, NY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	0.8802
Lubbock, TX	
Lynchburg, VA	0.8558
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robins, GA	0.8816
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0325
Dane, WI	
Manchester-Nashua, NH	1.0242
Hillsborough, NH	
Merrimack, NH	
Mansfield, OH	0.8404
Richland, OH	
Mayaguez, PR	0.4778
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
San German, PR	
McAllen-Edinburg-Mission, TX	0.7726
Hidalgo, TX	
Medford, OR	1.0059
Jackson, OR	
Melbourne-Titusville, FL	0.9212
Brevard, FL	
Memphis, TN-AR-MS	0.9072
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Merced, CA	1.0326
Merced, CA	
*Miami-Hialeah, FL	1.0203
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	1.0415
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.0391
Midland, TX	
*Milwaukee, WI	0.9732
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
*Minneapolis-St. Paul, MN-WI	1.0833

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	0.8331
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.1599
Stanislaus, CA	
Monmouth-Ocean, NJ	0.9914
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	0.7875
Ouachita, LA	
Montgomery, AL	0.7749
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	0.8079
Delaware, IN	
Muskegon, MI	0.9496
Muskegon, MI	
Naples, FL	1.0338
Collier, FL	
Nashville, TN	0.9410
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
*Nassau-Suffolk, NY	1.2657
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	1.0016
Bristol, MA	
New Haven-Waterbury-Meriden, CT	1.2112
New Haven, CT	
New London-Norwich, CT	1.1588
New London, CT	
*New Orleans, LA	0.8913
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
*New York, NY	1.3491
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
*Newark, NJ	1.1248
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	0.7571
Niagara, NY	
*Norfolk-Virginia Beach-Newport News, VA	0.8527

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
*Oakland, CA	1.4225
Alameda, CA	
Contra Costa, CA	
Ocala, FL	0.8626
Marion, FL	
Odessa, TX	1.0987
Ector, TX	
Oklahoma City, OK	0.9157
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia, WA	1.1017
Thurston, WA	
Omaha, NE-IA	0.9002
Pottawattamie, IA	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange County, NY	0.9703
Orange, NY	
Orlando, FL	0.9634
Orange, FL	
Osceola, FL	
Seminole, FL	
Owensboro, KY	0.8126
Daviess, KY	
Oxnard-Ventura, CA	1.2102
Ventura, CA	
Panama City, FL	0.8645
Bay, FL	
Parkersburg-Marietta, WV-OH	0.8552
Washington, OH	
Wood, WV	
Pascagoula, MS	0.8767
Jackson, MS	
Pensacola, FL	0.8636
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	0.8722
Peoria, IL	
Tazewell, IL	
Woodford, IL	
*Philadelphia, PA-NJ	1.0967
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
*Phoenix, AZ	1.0443
Maricopa, AZ	
Pine Bluff, AR	0.7883
Jefferson, AR	
*Pittsburgh, PA	1.0142

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	1.0797
Berkshire, MA	
Ponce, PR	0.4608
Juana Diaz, PR	
Ponce, PR	
Portland, ME	0.9305
Cumberland, ME	
Sagadahoc, ME	
York, ME	
*Portland, OR	1.1589
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	1.0120
Rockingham, NH	
Stratford, NH	
Poughkeepsie, NY	1.0462
Dutchess, NY	
*Providence-Pawtucket-Woonsocket, RI	1.0662
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	1.0244
Utah, UT	
Pueblo, CO	0.8734
Pueblo, CO	
Racine, WI	0.8742
Racine, WI	
Raleigh-Durham, NC	0.9478
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	0.8412
Pennington, SD	
Reading, PA	0.9103
Berks, PA	
Redding, CA	1.0564
Shasta, CA	
Reno, NV	1.1634
Washoe, NV	
Richland-Kennewick, WA	0.9415
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	0.9430
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
*Riverside-San Bernardino, CA	1.1067
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	0.8296
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.1045

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Olmsted, MN	
Rochester, NY	0.9724
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	0.9296
Boone, IL	
Winnebago, IL	
*Sacramento, CA	1.2249
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0466
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	0.8995
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	0.9427
Buchanan, MO	
*St. Louis, MO-IL	0.9401
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Salem, OR	1.0460
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.3059
Monterey, CA	
*Salt Lake City-Ogden, UT	0.9946
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	0.8151
Tom Green, TX	
*San Antonio, TX	0.8454
Bexar, TX	
Cornal, TX	
Guadalupe, TX	
*San Diego, CA	1.1951
San Diego, CA	
*San Francisco, CA	1.4531
Marin, CA	
San Francisco, CA	
San Mateo, CA	
*San Jose, CA	1.4668
Santa Clara, CA	
*San Juan, PR	0.4994
Barcelona, PR	
Bayamon, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Lugaillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1785
Santa Barbara, CA	
Santa Cruz, CA	1.1835
Santa Cruz, CA	
Santa Fe, NM	0.9175
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.2975
Sonoma, CA	
Sarasota, FL	0.9795
Sarasota, FL	
Savannah, GA	0.8339
Chatham, GA	
Effingham, GA	
Scranton-Wilkes Barre, PA	0.8928
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
*Seattle, WA	1.0886
King, WA	
Snohomish, WA	
Sharon, PA	0.9184
Mercer, PA	
Sheboygan, WI	0.8684
Sheboygan, WI	
Sherman-Denison, TX	0.9101
Grayson, TX	
Shreveport, LA	0.9312
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	0.8516
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	0.8845
Minnehaha, SD	
South Bend-Mishawaka, IN	1.0081
St. Joseph, IN	
Spokane, WA	1.0706
Spokane, WA	
Springfield, IL	0.9308
Menard, IL	
Sangamon, IL	
Springfield, MO	0.8093
Christian, MO	
Greene, MO	
Springfield, MA	0.9636
Hampden, MA	
Hampshire, MA	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
State College, PA	0.9915
Centre, PA	
Steubenville-Weirton, OH-WV	0.8724
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.1629
San Joaquin, CA	
Syracuse, NY	0.9575
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.0214
Pierce, WA	
Tallahassee, FL	0.9233
Gadsden, FL	
Leon, FL	
*Tampa-St. Petersburg-Clearwater, FL	0.9201
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	0.8770
Clay, IN	
Vigo, IN	
Texarkana-TX-Texarkana, AR	0.7903
Miller, AR	
Bowie, TX	
Toledo, OH	1.0038
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	0.9315
Shawnee, KS	
Trenton, NJ	1.0221
Mercer, NJ	
Tucson, AZ	0.9633
Pima, AZ	
Tulsa, OK	0.8544
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	0.8533
Tuscaloosa, AL	
Tyler, TX	0.9644
Smith, TX	
Utica-Rome, NY	0.8335
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.2935
Napa, CA	
Solano, CA	
Vancouver, WA	1.0814
Clark, WA	
Victoria, TX	0.9006
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	0.9773
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.0407
Tulare, CA	
Waco, TX	0.7825
McLennan, TX	
*Washington, DC-MD-VA	1.0956
District of Columbia, DC	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

[Areas that qualify as large urban areas are designated with an asterisk]

Urban area (constituent counties or county equivalents)	Wage index
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	0.8654
Black Hawk, IA	
Bremer, IA	
Wausau, WI	0.9762
Marathon, WI	
West Palm Beach-Boca Raton-Delray Beach, FL	1.0092
Palm Beach, FL	
Wheeling, WV-OH	0.7741
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	0.9823
Butler, KS	
Harvey, KS	
Sedgwick, KS	
Wichita Falls, TX	0.8183
Wichita, TX	
Williamsport, PA	0.8868
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0884
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	0.8724
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	1.0809
Worcester, MA	
Yakima, WA	1.0125
Yakima, WA	
York, PA	0.9174
Adams, PA	
York, PA	
Youngstown-Warren, OH	0.8680
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	1.0181
Sutter, CA	
Yuba, CA	
Yuma, AZ	0.8898
Yuma, AZ	

* All hospitals within this urban area have been reclassified to another urban area.

TABLE 4B.—WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index
Alabama	0.7131
Alaska	1.3536
Arizona	0.8608
Arkansas	0.6976
California	1.0134
Colorado	0.8420
Connecticut	1.1922
Delaware	0.8584

TABLE 4B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index
Florida	0.8743
Georgia	0.7774
Hawaii	0.9631
Idaho	0.8965
Illinois	0.7710
Indiana	0.7779
Iowa	0.7517
Kansas	0.7457
Kentucky	0.7809
Louisiana	0.7395
Maine	0.8351
Maryland	0.8073
Massachusetts	1.1729
Michigan	0.8826
Minnesota	0.8320
Mississippi	0.6967
Missouri	0.7221
Montana	0.8266
Nebraska	0.7005
Nevada	0.9716
New Hampshire	0.9560
New Jersey *	
New Mexico	0.8329
New York	0.8407
North Carolina	0.7883
North Dakota	0.7729
Ohio	0.8442
Oklahoma	0.7411
Oregon	0.9620
Pennsylvania	0.8697
Puerto Rico	0.4339
Rhode Island *	
South Carolina	0.7661
South Dakota	0.7178
Tennessee	0.7349
Texas	0.7595
Utah	0.9057
Vermont	0.9242
Virginia	0.7826
Washington	0.9649
West Virginia	0.8505
Wisconsin	0.8460
Wyoming	0.8469

* All counties within the State are classified urban.

TABLE 4C.—WAGE INDEX FOR HOSPITALS THAT ARE RECLASSIFIED

Area reclassified to	Wage index
Abilene, TX	0.9442
Akron, OH	0.9071
Albany, GA	0.7774
Albany-Schenectady-Troy, NY	0.8935
Albany-Schenectady-Troy, NY (Vermont Hospitals)	0.9242
Albuquerque, NM	0.9956
Alexandria, LA	0.8287
Allentown-Bethlehem-Easton, PA-NJ	0.9458
Altoona, PA	0.9251
Amarillo, TX	0.8762
Anaheim-Santa Ana, CA	1.1825
Anchorage, AK	1.4035
Anderson, IN	0.9740
Ann Arbor, MI	1.1115
Appleton-Oshkosh-Neenah, WI	0.9007
Asheville, NC	0.8543
Atlanta, GA	0.9609
Augusta, GA-SC	0.9414
Aurora-Elgin, IL	0.9604
Baltimore, MD	1.0170
Bangor, ME	0.9076
Baton Rouge, LA	0.9101
Battle Creek, MI	0.9112

TABLE 4C.—WAGE INDEX FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area reclassified to	Wage index
Beaver County, PA	0.9526
Benton Harbor, MI	0.8826
Billings, MT	0.9157
Billow-Gulfport, MS	0.7971
Binghamton, NY	0.9133
Bismarck, ND	0.8708
Bloomington, IN	0.7815
Boise City, ID	1.0125
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1826
Buffalo, NY	0.8921
Burlington, VT	0.9057
Burlington, VT (Vermont Hospitals)	0.9242
Caguas, PR	0.4594
Canton, OH	0.8442
Charleston, SC	0.8185
Charleston, WV	0.9706
Charlotte-Gastonia-Rock Hill, NC-SC	0.9469
Charlottesville, VA	0.9387
Chattanooga, TN-GA	0.9026
Cheyenne, WY	0.7733
Chicago, IL	1.0532
Chico, CA	1.0631
Cincinnati, OH-KY-IN	0.9834
Cleveland, OH	1.0552
Columbia, MO	0.9311
Columbus, OH	0.9584
Dallas, TX	0.9378
Davenport-Rock Island-Moline, IA-IL	0.8482
Dayton-Springfield, OH	0.9533
Denver, CO	1.0773
Des Moines, IA	0.9184
Detroit, MI	1.0843
Dothan, AL	0.7580
Dubuque, IA	0.8132
Dubuque, IA (Wisconsin Hospitals)	0.8460
Duluth, MN-WI	0.9531
Eau Claire, WI	0.8489
Elkhart-Goshen, IN	0.8593
Elmira, NY	0.8706
Enid, OK	0.8522
Eugene-Springfield, OR	1.0178
Evansville, IN-KY	0.9289
Fargo-Moorhead, ND-MN	0.9335
Fayetteville, NC	0.7883
Fayetteville-Springdale, AR	0.8001
Flint, MI	1.1352
Florence, AL	0.7892
Florence, SC	0.8440
Fort Lauderdale-Hollywood-Pompano Beach, FL	1.0388
Fort Meyers-Cape Coral, FL	0.9813
Fort Pierce, FL	1.0318
Fort Walton Beach, FL	0.8954
Fort Wayne, IN	0.8770
Fort Worth-Arlington, TX	0.9537
Fresno, CA	1.0752
Galveston-Texas City, TX	0.9444
Glens Falls, NY	0.9477
Grand Forks, ND	0.9220
Grand Rapids, MI	0.9897
Great Falls, MT	0.9335
Greeley, CO	0.9371
Green Bay, WI	0.9413
Greensboro-Winston-Salem-High Point, NC	0.8640
Greenville-Spartanburg, SC	0.8916
Hagerstown, MD	0.9013
Harrisburg-Lebanon-Carlisle, PA	0.9593
Hartford-Middletown-New Britain-Bristol, CT	1.1831
Hickory, NC	0.8596
Honolulu, HI	1.1597
Houston, TX	0.9793
Huntington-Ashland, WV-KY-OH	0.9209
Huntsville, AL	0.8383
Indianapolis, IN	0.9580

TABLE 4C—WAGE INDEX FOR HOSPITALS
THAT ARE RECLASSIFIED—Continued

Area reclassified to	Wage index
Iowa City, IA	0.9340
Jackson, MI	0.8838
Jackson, MS	0.7744
Jackson, TN	0.7984
Jacksonville, FL	0.9063
Johnson City-Kingsport-Bristol, TN-VA	0.8680
Joliet, IL	1.0171
Joplin, MO	0.7892
Kalamazoo, MI	1.1332
Kansas City, KS-MO	0.9602
Knoxville, TN	0.8705
Kokomo, IN	0.9254
LaCrosse, WI	0.8968
Lafayette, LA	0.8257
Lafayette, IN	0.8444
Lake Charles, LA	0.8386
Lancaster, PA	0.9106
Lansing-East Lansing, MI	1.0125
Las Vegas, NV	1.0646
Lawton, OK	0.8231
Lexington-Fayette, KY	0.8335
Lima, OH	0.8442
Lincoln, NE	0.8585
Little Rock-North Little Rock, AR	0.8432
Longview-Marshall, TX	0.8703
Lorain-Elyria, OH	0.8952
Los Angeles-Long Beach, CA	1.2372
Louisville, KY-IN	0.8987
Lubbock, TX	0.8802
Lynchburg, VA	0.8401
Macon-Warner Robins, GA	0.8816
Madison, WI	1.0127
Manchester-Nashua, NH	1.0242
Mansfield, OH	0.8442
Medford, OR	0.9898
Memphis, TN-AR-MS	0.9072
Midland, TX	1.0391
Milwaukee, WI	0.9732
Minneapolis-St. Paul, MN-WI	1.0833
Mobile, AL	0.8331
Modesto, CA	1.1599
Monroe, LA	0.7767
Montgomery, AL	0.7749
Muncie, IN	0.8079
Muskegon, MI	0.9496
Nashville, TN	0.9410
New London-Norwich, CT	1.1279
New Orleans, LA	0.8913
New York, NY	1.3491

TABLE 4C—WAGE INDEX FOR HOSPITALS
THAT ARE RECLASSIFIED—Continued

Area reclassified to	Wage index
Oakland, CA	1.4225
Oklahoma City, OK	0.9157
Olympia, WA	1.1017
Omaha, NE-IA	0.9002
Orange County, NY	0.9703
Orlando, FL	0.9634
Owensboro, KY	0.8126
Oxnard-Ventura, CA	1.2102
Parkersburg-Marietta, WV-OH	0.8552
Peoria, IL	0.8722
Philadelphia, PA-NJ	1.0967
Phoenix, AZ	1.0443
Pine Bluff, AR	0.7769
Pittsburgh, PA	1.0142
Portland, ME	0.9305
Portland, OR	1.1589
Poughkeepsie, NY	1.0462
Provo-Orem, UT	1.0244
Raleigh-Durham, NC	0.9276
Rapid City, SD	0.8412
Reading, PA	0.8738
Redding, CA	1.0564
Reno, NV	1.1454
Roanoke, VA	0.8296
Rochester, NY	0.9599
Rockford, IL	0.9084
Saginaw-Bay City-Midland, MI	1.0159
St. Cloud, MN	0.8995
St. Louis, MO-IL	0.9401
Salem, OR	1.0326
Salinas-Seaside-Monterey, CA	1.2917
San Antonio, TX	0.8454
San Francisco, CA	1.4531
San Jose, CA	1.4556
Santa Barbara-Santa Maria-Lompoc, CA	1.1785
Sante Fe, NM	0.9175
Santa Rosa-Petaluma, CA	1.2846
Sarasota, FL	0.9599
Scranton-Wilkes Barre, PA	0.8928
Seattle, WA	1.0886
Sharon, PA	0.8946
Sheboygan, WI	0.8735
Shreveport, LA	0.9312
Sioux City, IA-NE	0.8335
South Bend-Mishawaka, IN	0.9777
Springfield, IL	0.9206
Springfield, MO	0.7970
State College, PA	0.9341
Steubenville-Weirton, OH-WV	0.8476

TABLE 4C—WAGE INDEX FOR HOSPITALS
THAT ARE RECLASSIFIED—Continued

Area reclassified to	Wage index
Steubenville-Weirton, OH-WV (West Virginia Hospitals)	0.8505
Syracuse, NY	0.9410
Tacoma, WA	1.0214
Tallahassee, FL	0.8866
Tampa-St. Petersburg-Clearwater, FL	0.9201
Terre Haute, IN	0.8663
Toledo, OH	1.0038
Topeka, KS	0.9105
Tucson, AZ	0.9633
Tulsa, OK	0.8544
Tyler, TX	0.9297
Vancouver, WA	1.0328
Victoria, TX	0.9006
Waco, TX	0.7825
Waterloo-Cedar Falls, IA	0.8654
Wausau, WI	0.9218
West Palm Beach-Boca Raton-Delray Beach, FL	1.0092
Wichita, KS	0.9636
Wichita Falls, TX	0.8183
Williamsport, PA	0.8713
Yakima, WA	1.0125
Youngstown-Warren, OH	0.9568
Rural Georgia	0.7774
Rural Illinois	0.7710
Rural Indiana	0.7779
Rural Iowa	0.7517
Rural Kansas	0.7457
Rural Kentucky	0.7809
Rural Louisiana	0.7395
Rural Michigan	0.8826
Rural Minnesota	0.8320
Rural Missouri	0.7221
Rural New Hampshire	0.9560
Rural North Carolina	0.7883
Rural Ohio	0.8442
Rural Oklahoma	0.7411
Rural Pennsylvania	0.8697
Rural South Dakota	0.7178
Rural Utah	0.9057
Rural Washington	0.9649
Rural West Virginia	0.8505
Rural Wisconsin	0.8460
Rural Wyoming	0.8314

BILLING CODE 4120-03-M

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
1	01	SURG	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA		
2	01	SURG	CRANIOTOMY FOR TRAUMA AGE >17	12.2	41
3	01	SURG	CRANIOTOMY AGE 0-17	3.3418	40
4	01	SURG	SPINAL PROCEDURES	3.3220	42
5	01	SURG	EXTRACRANIAL VASCULAR PROCEDURES	2.8830	39
				2.4232	34
				1.5245	
6	01	SURG	CARPAL TUNNEL RELEASE		
7	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC WITH CC	1.9	17
8	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	2.6581	40
9	01	MED	SPINAL DISORDERS & INJURIES	1.7629	32
10	01	MED	NERVOUS SYSTEM NEOPLASMS WITH CC	1.2807	36
				1.2811	37
11	01	MED	NERVOUS SYSTEM NEOPLASMS W/O CC		
12	01	MED	DEGENERATIVE NERVOUS SYSTEM DISORDERS	.7603	33
13	01	MED	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	.9345	36
14	01	MED	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	.8572	36
15	01	MED	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	1.2198	36
				.6541	33
16	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC		
17	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	1.0830	36
18	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS WITH CC	.6315	33
19	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	.8958	35
20	01	MED	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	.5723	33
				1.9272	37
21	01	MED	VIRAL MENINGITIS		
22	01	MED	HYPERTENSIVE ENCEPHALOPATHY	1.4957	36
23	01	MED	NONTRAUMATIC STUPOR & COMA	.7192	33
24	01	MED	SEIZURE & HEADACHE AGE >17 WITH CC	.8786	33
25	01	MED	SEIZURE & HEADACHE AGE >17 W/O CC	.8783	34
				.5273	28
26	01	MED	SEIZURE & HEADACHE AGE 0-17		
27	01	MED	TRAUMATIC STUPOR & COMA, COMA >1 HR	.8411	31
28	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 WITH CC	1.3450	33
29	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	1.2289	35
30	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	.5511	32
				.3496	17
31	01	MED	CONCUSSION AGE >17 WITH CC		
32	01	MED	CONCUSSION AGE >17 W/O CC	.7131	33
33	01	MED	CONCUSSION AGE 0-17	.4082	24
34	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM WITH CC	.2427	9
35	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	1.1508	35
				.5849	33

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.

** DRGS 489 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
36	02	SURG			
37	02	SURG	.6402	2.1	12
38	02	SURG	.7826	2.9	32
39	02	SURG	.3550	2.1	18
40	02	SURG	.4711	1.5	8
			.5110	2.0	23
41	02	SURG			
42	02	SURG	.3613	1.8	7
43	02	MED	.8134	2.1	15
44	02	MED	.3540	3.8	24
45	02	MED	.6114	5.5	34
			.5955	3.5	30
46	02	MED			
47	02	MED	.6715	4.2	33
48	02	MED	.3951	2.7	31
49	03	SURG	.3969	2.9	30
50	03	SURG	2.2703	7.0	38
			.6633	2.2	14
51	03	SURG			
52	03	SURG	.5861	2.0	17
53	03	SURG	.7457	2.4	23
54	03	SURG	.8511	1.9	20
55	03	SURG	.8808	3.2	22
			.5086	1.8	14
56	03	SURG			
57	03	SURG	.5499	1.8	15
58	03	SURG	.8489	3.4	32
59	03	SURG	.3060	1.5	4
60	03	SURG	.4131	1.5	11
			.2584	1.5	4
61	03	SURG			
62	03	SURG	.8180	2.5	32
63	03	SURG	.3052	1.3	5
64	03	MED	1.0818	3.8	33
65	03	MED	1.1170	5.2	34
			.4748	3.3	23
66	03	MED			
67	03	MED	.4818	3.3	24
68	03	MED	.8787	4.2	33
69	03	MED	.7294	5.0	33
70	03	MED	.5198	3.9	23
			.5389	3.2	32

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** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
71	03	MED			
72	03	MED	.8298	4.8	34
73	03	MED	.5848	3.4	32
74	03	MED	.7533	4.1	33
75	04	SURG	.3388	2.1	20
			3.0000	11.5	41
76	04	SURG			
77	04	SURG	2.3755	10.6	40
78	04	MED	1.0388	4.5	34
79	04	MED	1.4339	8.7	38
80	04	MED	1.7847	9.2	38
			1.0097	6.7	38
81	04	MED			
82	04	MED	1.0899	6.1	35
83	04	MED	1.2461	6.7	38
84	04	MED	.9544	6.2	35
85	04	MED	.4854	3.7	32
			1.1863	6.8	36
86	04	MED			
87	04	MED	.6839	4.3	33
88	04	MED	1.3919	6.0	35
89	04	MED	.9982	5.9	35
90	04	MED	1.1719	7.1	36
			.7318	5.4	30
91	04	MED			
92	04	MED	.7903	4.1	33
93	04	MED	1.2034	6.9	38
94	04	MED	.8021	5.2	34
95	04	MED	1.2494	7.1	36
			.6146	4.4	33
96	04	MED			
97	04	MED	.9505	5.9	35
98	04	MED	.6466	4.6	28
99	04	MED	.7484	5.2	34
100	04	MED	.7880	4.1	33
			.4991	2.8	17
101	04	MED			
102	04	MED	.9252	5.1	34
103	05	SURG	.5300	3.3	30
104	05	SURG	12.2183	23.8	53
105	05	SURG	8.2071	18.1	47
			6.1312	12.7	42

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
106	05	SURG	CORONARY BYPASS W CARDIAC CATH	13.6	43
107	05	SURG	CORONARY BYPASS W/O CARDIAC CATH	5.4368	40
108	05	SURG	OTHER CARDIOTHORACIC PROCEDURES	4.9325	42
109	05	SURG	NO LONGER VALID	5.9278	0
110	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES WITH CC	.0000	39
111	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	4.1563	37
112	05	SURG	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	2.4009	34
113	05	SURG	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE	2.0129	43
114	05	SURG	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	2.6816	38
115	05	SURG	PERM CARDIAC PACEMAKER IMPLANT W AMI, HEART FAILURE OR SHOCK	1.5571	41
116	05	SURG	PERM CARDIAC PACEMAKER IMPLANT W/O AMI, HEART FAILURE OR SHOCK	3.6887	35
117	05	SURG	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	2.5029	33
118	05	SURG	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.2714	32
119	05	SURG	VEIN LIGATION & STRIPPING	1.6977	33
120	05	SURG	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	.9411	36
121	05	MED	CIRCULATORY DISORDERS W AMI & C.V. COMP DISCH ALIVE	2.0883	37
122	05	MED	CIRCULATORY DISORDERS W AMI W/O C.V. COMP DISCH ALIVE	1.8268	35
123	05	MED	CIRCULATORY DISORDERS W AMI, EXPIRED	1.1714	32
124	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG	1.3857	33
125	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG	1.1979	22
126	05	MED	ACUTE & SUBACUTE ENDOCARDITIS	.7389	45
127	05	MED	HEART FAILURE & SHOCK	2.8809	35
128	05	MED	DEEP VEIN THROMBOPHLEBITIS	1.0095	33
129	05	MED	CARDIAC ARREST, UNEXPLAINED	.7841	31
130	05	MED	PERIPHERAL VASCULAR DISORDERS WITH CC	1.2600	35
131	05	MED	PERIPHERAL VASCULAR DISORDERS W/O CC	.9156	34
132	05	MED	ATHEROSCLEROSIS WITH CC	.5917	33
133	05	MED	ATHEROSCLEROSIS W/O CC	.7282	28
134	05	MED	HYPERTENSION	.5334	30
135	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE > 17 WITH CC	.5674	34
136	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE > 17 W/O CC	.8770	28
137	05	MED	* CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0-17	.5472	32
138	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS WITH CC	.8239	33
139	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	.8232	23
140	05	MED	ANGINA PECTORIS	.5153	25
				.8258	

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
141	05	MED			
142	05	MED	.8959	4.3	33
143	05	MED	.5018	3.1	22
144	05	MED	.5138	2.8	18
145	05	MED	1.0897	5.2	34
			.6470	3.4	32
146	06	SURG			
147	06	SURG	2.5742	12.4	41
148	06	SURG	1.6354	9.0	35
149	06	SURG	3.1749	13.5	42
150	06	SURG	1.5462	8.9	29
			2.5108	11.4	40
151	06	SURG			
152	06	SURG	1.2024	6.7	36
153	06	SURG	1.7292	8.7	38
154	06	SURG	1.0557	8.7	28
155	06	SURG	4.1565	14.3	43
			1.5468	7.7	37
156	06	SURG			
157	06	SURG	.8281	6.0	35
158	06	SURG	.9425	4.6	34
159	06	SURG	.4924	2.5	18
160	06	SURG	1.0740	4.9	34
			.6167	2.9	20
161	06	SURG			
162	06	SURG	.7392	3.2	32
163	06	SURG	.4480	1.8	11
164	06	SURG	.8751	4.0	33
165	06	SURG	2.1733	9.8	39
			1.2595	6.9	25
166	06	SURG			
167	06	SURG	1.2980	6.1	35
168	03	SURG	.7021	4.0	15
169	03	SURG	1.0604	3.8	33
170	06	SURG	.5439	2.0	17
			2.7466	11.1	40
171	06	SURG			
172	06	MED	1.1431	5.3	34
173	06	MED	1.2535	7.0	38
174	06	MED	.6219	3.6	33
175	06	MED	.9738	5.4	34
			.5704	3.8	23

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
176	06	MED	1.0228	5.9	35
177	06	MED	.7823	5.1	32
178	06	MED	.5655	3.8	22
179	06	MED	1.1157	7.1	38
180	06	MED	.9222	5.8	35
G.I. OBSTRUCTION WITH CC					
181	06	MED	.4990	3.8	25
182	06	MED	.7819	4.9	34
183	06	MED	.5207	3.5	25
184	06	MED	.5126	2.7	16
185	03	MED	.7857	4.4	33
G.I. OBSTRUCTION W/O CC					
186	03	MED	.4082	2.9	23
187	03	MED	.5159	2.3	28
188	06	MED	.9840	5.2	34
189	06	MED	.4631	2.8	30
190	06	MED	.7522	4.2	33
DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17					
191	07	SURG	4.3970	15.4	44
192	07	SURG	1.7299	8.5	37
193	07	SURG	3.0112	13.9	43
194	07	SURG	1.6109	8.7	38
195	07	SURG	2.2105	10.6	40
DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0-17					
196	07	SURG	1.3578	7.8	28
197	07	SURG	1.6883	7.8	37
198	07	SURG	.9084	4.5	25
199	07	SURG	2.3695	11.8	41
200	07	SURG	2.7731	9.4	38
201	07	SURG	2.2911	8.8	38
202	07	MED	1.2263	7.2	38
203	07	MED	1.1803	6.8	38
204	07	MED	1.0897	6.1	35
205	07	MED	1.2355	6.7	30
OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES					
206	07	MED	.6003	3.7	33
207	07	MED	.9754	5.5	34
208	07	MED	.5526	3.3	26
209	08	SURG	2.3884	10.1	38
210	08	SURG	1.9494	11.4	40

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				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
211	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC	1.3851	9.0	38
212	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17	.9603	4.5	34
213	08	SURG	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS	1.7483	9.4	38
214	08	SURG	BACK & NECK PROCEDURES WITH CC	1.8621	8.9	38
215	08	SURG	BACK & NECK PROCEDURES W/O CC	1.1145	5.8	32
216	08	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE	1.9244	9.3	38
217	08	SURG	WND DEBRID & SKN GFT EXCEPT HAND, FOR MUSCULOSKELETAL & CONN TISS DIS	3.1256	14.0	43
218	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 WITH CC	1.4137	7.2	36
219	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W/O CC	.9054	4.6	29
220	08	SURG	* LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE 0-17	.9130	5.3	34
221	08	SURG	KNEE PROCEDURES WITH CC	1.8483	7.6	37
222	08	SURG	KNEE PROCEDURES W/O CC	.9698	3.8	33
223	08	SURG	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC	.8054	3.3	25
224	08	SURG	SHOULDER, ELBOW OR FOREARM PROC, EXC MAJOR JOINT PROC, W/O CC	.6322	2.5	15
225	08	SURG	FOOT PROCEDURES	.7882	3.3	32
226	08	SURG	SOFT TISSUE PROCEDURES WITH CC	1.3604	6.0	35
227	08	SURG	SOFT TISSUE PROCEDURES W/O CC	.6807	2.9	25
228	08	SURG	MAJOR THUMB OR JOINT PROC, OR OTH HAND OR WRIST PROC W CC	.8024	2.8	28
229	08	SURG	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	.5402	1.9	16
230	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR	.9346	4.1	33
231	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR	1.0800	4.0	33
232	08	SURG	ARTHROSCOPY	1.2480	4.0	33
233	08	SURG	OTHER MUSCULOSKELETAL SYS & CONN TISS O.R. PROC WITH CC	1.9754	9.0	38
234	08	SURG	OTHER MUSCULOSKELETAL SYS & CONN TISS O.R. PROC W/O CC	1.0341	4.6	34
235	08	MED	FRACTURES OF FEMUR	1.0962	7.4	36
236	08	MED	FRACTURES OF HIP & PELVIS	.8420	6.6	36
237	08	MED	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	.5803	4.4	33
238	08	MED	OSTEOMYELITIS	1.5808	10.6	40
239	08	MED	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY	1.0271	7.5	37
240	08	MED	CONNECTIVE TISSUE DISORDERS WITH CC	1.1489	7.1	36
241	08	MED	CONNECTIVE TISSUE DISORDERS W/O CC	.5598	4.4	33
242	08	MED	SEPTIC ARTHRITIS	1.2543	8.2	37
243	08	MED	MEDICAL BACK PROBLEMS	.6697	5.0	34
244	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES WITH CC	.7875	5.5	34
245	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	.5431	4.0	33

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
281	09	MED			
282	09	MED	.4188	3.1	10
283	09	MED	.3383	2.2	19
284	09	MED	.7317	5.2	34
285	10	SURG	.4401	3.5	33
			2.6867	15.0	44
286	10	SURG			
287	10	SURG	2.4249	9.5	38
288	10	SURG	2.2498	13.4	42
289	10	SURG	2.0003	7.1	36
290	10	SURG	1.0063	4.0	33
291	10	SURG	.7500	2.8	17
292	10	SURG			
293	10	SURG	.4430	1.7	8
294	10	MED	2.8130	12.0	41
295	10	MED	1.1455	5.5	34
			.7531	5.8	35
			.7466	4.4	33
296	10	MED			
297	10	MED	.9369	6.0	35
298	10	MED	.5311	4.0	31
299	10	MED	.5477	2.8	31
300	10	MED	.8574	4.8	34
			1.1235	6.9	36
301	10	MED			
302	11	SURG	.5899	4.1	33
303	11	SURG	3.6312	13.8	43
304	11	SURG	2.6651	11.4	40
305	11	SURG	2.3712	10.0	39
			1.1878	5.3	34
306	11	SURG			
307	11	SURG	1.2958	6.9	36
308	11	SURG	.7136	4.0	23
309	11	SURG	1.4382	6.4	35
310	11	SURG	.7380	3.2	31
			.8797	3.9	33
311	11	SURG			
312	11	SURG	.5136	2.3	16
313	11	SURG	.8190	3.8	33
314	11	SURG	.4618	2.1	17
315	11	SURG	.4271	2.3	26
			2.0364	7.0	36

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
316	11	MED	1.2808	6.3	35
317	11	MED	.4827	2.5	31
318	11	MED	1.0977	6.0	35
319	11	MED	.5479	2.6	32
320	11	MED	1.0014	6.7	36
321	11	MED	.6371	4.9	28
322	11	MED	.6298	4.6	34
323	11	MED	.7118	2.9	31
324	11	MED	.3947	2.1	14
325	11	MED	.6679	4.3	33
326	11	MED	.4218	2.9	25
327	11	MED	.5444	3.1	32
328	11	MED	.8170	3.6	33
329	11	MED	.3978	2.1	18
330	11	MED	.2754	1.6	9
331	11	MED	.9533	5.3	34
332	11	MED	.5310	3.0	32
333	11	MED	.8728	4.7	34
334	12	SURG	1.7569	8.9	32
335	12	SURG	1.3601	7.4	21
336	12	SURG	.9029	5.0	28
337	12	SURG	.8187	3.7	13
338	12	SURG	.7784	2.9	32
339	12	SURG	.6423	2.5	32
340	12	SURG	.4283	2.4	13
341	12	SURG	.9659	3.3	25
342	12	SURG	.5942	2.5	31
343	12	SURG	.3742	1.7	6
344	12	SURG	1.0462	4.4	33
345	12	SURG	.7330	3.3	32
346	12	MED	.9615	5.8	35
347	12	MED	.4988	2.6	32
348	12	MED	.6686	3.9	33
349	12	MED	.4023	2.3	20
350	12	MED	.6761	4.9	28

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.

** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
351	12	MED	* STERILIZATION, MALE		
352	12	MED	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	1.3	5
353	13	SURG	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY	3.3	32
354	13	SURG	UTERINE, ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG WITH CC	10.1	38
355	13	SURG	UTERINE, ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC	7.2	33
				5.0	13
356	13	SURG	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES	4.1	17
357	13	SURG	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIG	10.2	38
358	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY WITH CC	6.0	23
359	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	4.6	12
360	13	SURG	VAGINA, CERVIX & VULVA PROCEDURES	4.1	30
361	13	SURG	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	3.3	32
362	13	SURG	* ENDOSCOPIC TUBAL INTERRUPTION	1.4	5
363	13	SURG	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	3.1	27
364	13	SURG	D&C, CONIZATION EXCEPT FOR MALIGNANCY	2.5	28
365	13	SURG	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	7.4	38
366	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM WITH CC	6.6	38
367	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	2.9	32
368	13	MED	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	6.0	35
369	13	MED	MENSTRUUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS	3.3	32
370	14	SURG	CESAREAN SECTION W CC	5.8	35
371	14	SURG	CESAREAN SECTION W/O CC	4.1	11
372	14	MED	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	3.3	32
373	14	MED	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	2.1	8
374	14	SURG	VAGINAL DELIVERY W STERILIZATION &/OR D&C	2.5	9
375	14	SURG	* VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	4.4	29
376	14	MED	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE	2.4	22
377	14	SURG	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE	2.8	32
378	14	MED	ECTOPIC PREGNANCY	3.9	14
379	14	MED	THREATENED ABORTION	2.1	15
380	14	MED	ABORTION W/O D&C	1.4	10
381	14	SURG	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	1.6	10
382	14	MED	FALSE LABOR	1.2	5
383	14	MED	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS	3.2	30
384	14	MED	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS	2.2	22
385	15	MED	* NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	1.8	31

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.

** DRGS 489 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
386	15	MED	3.8039	17.9	47
387	15	MED	1.8048	13.3	42
388	15	MED	1.1431	8.6	38
389	15	MED	1.4531	6.5	35
390	15	MED	.8997	4.5	34
391	15	MED	2.191	3.1	11
392	16	SURG	3.2872	11.6	41
393	16	SURG	1.5022	9.1	38
394	16	SURG	1.5886	5.7	35
395	16	MED	.7891	4.6	34
396	16	MED	.5367	2.4	31
397	16	MED	1.2109	5.5	34
398	16	MED	1.2052	6.6	38
399	16	MED	.6882	4.0	33
400	17	SURG	2.5840	9.4	38
401	17	SURG	2.2450	10.3	39
402	17	SURG	.8632	3.6	33
403	17	MED	1.8103	8.1	37
404	17	MED	.7284	3.9	33
405	17	MED	1.0281	4.9	34
406	17	SURG	2.6481	10.8	40
407	17	SURG	1.1634	5.3	34
408	17	SURG	1.1049	4.2	33
409	17	MED	1.0073	6.4	35
410	17	MED	.5951	2.8	19
411	17	MED	.4545	2.5	31
412	17	MED	.4221	2.1	21
413	17	MED	1.3268	7.5	39
414	17	MED	.7243	4.3	33
415	18	SURG	3.8768	14.8	44
416	18	MED	1.5335	7.5	37
417	18	MED	1.0083	5.0	34
418	18	MED	.9571	6.6	36
419	18	MED	.9550	5.8	35
420	18	MED	.6526	4.5	30

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					RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
421	18	MED	VIRAL ILLNESS AGE >17		.8873	4.4	32
422	18	MED	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17		.5928	4.0	33
423	18	MED	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES		1.6176	8.1	37
424	19	SURG	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS		2.3480	12.5	42
425	19	MED	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION		.7118	4.7	34
426	19	MED	DEPRESSIVE NEUROSES		.6222	5.5	34
427	19	MED	NEUROSES EXCEPT DEPRESSIVE		.8058	5.2	34
428	19	MED	DISORDERS OF PERSONALITY & IMPULSE CONTROL		.7801	6.7	38
429	19	MED	ORGANIC DISTURBANCES & MENTAL RETARDATION		.9325	7.6	37
430	19	MED	PSYCHOSES		.9074	8.8	38
431	19	MED	CHILDHOOD MENTAL DISORDERS		.7391	6.1	35
432	19	MED	OTHER MENTAL DISORDER DIAGNOSES		.7015	4.3	33
433	20	MED	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT ARM		.3774	3.1	32
434	20	MED	ALC/DRUG ABUSE OR DEPENDENCE, DETOX OR OTHER SYMPT TRT WITH CC		.7702	5.6	35
435	20	MED	ALC/DRUG ABUSE OR DEPENDENCE, DETOX OR OTHER SYMPT TRT W/O CC		.5154	4.8	34
436	20	MED	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY		1.0903	16.8	46
437	20	MED	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY		1.1838	15.1	44
438			NO LONGER VALID		.0000	.0	00
439	21	SURG	SKIN GRAFTS FOR INJURIES		1.4834	6.4	35
440	21	SURG	WOUND DEBRIDEMENTS FOR INJURIES		1.8270	8.4	37
441	21	SURG	HAND PROCEDURES FOR INJURIES		.6913	2.4	28
442	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES WITH CC		1.9320	6.2	35
443	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W/O CC		.7576	2.7	32
444	21	MED	TRAUMATIC INJURY AGE > 17 W CC		.7537	5.2	34
445	21	MED	TRAUMATIC INJURY AGE > 17 W/O CC		.4897	3.6	30
446	21	MED	* TRAUMATIC INJURY AGE 0-17		.4738	2.4	22
447	21	MED	ALLERGIC REACTIONS AGE >17		.4802	2.6	24
448	21	MED	* ALLERGIC REACTIONS AGE 0-17		.3428	2.9	17
449	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 WITH CC		.7874	4.2	33
450	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC		.4458	2.5	25
451	21	MED	* POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17		.5126	2.1	17
452	21	MED	COMPLICATIONS OF TREATMENT WITH CC		.8130	4.2	33
453	21	MED	COMPLICATIONS OF TREATMENT W/O CC		.4178	2.8	25
454	21	MED	OTHER INJURY, POISONING & TOXIC EFF DIAG WITH CC		.9118	4.4	33
455	21	MED	OTHER INJURY, POISONING & TOXIC EFF DIAG W/O CC		.4210	2.5	25

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.

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NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
456	22	MED			
457	22	MED	2.0663	5.7	35
458	22	SURG	1.6728	3.0	32
459	22	SURG	4.0260	16.3	45
460	22	MED	1.9344	10.4	39
			1.0484	6.4	35
461	23	SURG	.8219	2.5	31
462	23	MED	1.8140	14.2	43
463	23	MED	.7319	5.0	34
464	23	MED	.4505	3.1	28
465	23	MED	.3871	1.8	18
466	23	MED			
467	23	MED	.5754	2.6	32
468			.4299	2.5	32
469			3.4055	13.3	42
470			.0000	.0	0
			.0000	.0	0
471	08	SURG			
472	22	SURG	3.9537	13.3	42
473	17	MED	13.4433	21.8	51
474			3.3130	9.8	39
475	04	MED	.0000	.0	0
			3.6144	9.8	39
476					
477			2.2235	14.3	43
478	05	SURG	1.4338	8.1	35
479	05	SURG	2.2083	7.2	38
480		SURG	1.3271	4.4	33
			24.4737	41.1	70
481		SURG	14.7402	36.9	66
482		SURG	3.1671	13.5	42
483		SURG	13.9015	39.3	68
484	24	SURG	6.1795	13.9	43
485	24	SURG	2.9328	13.5	42
486	24	SURG			
487	24	MED	5.1650	11.2	40
488	25	SURG	1.7693	7.7	37
489	25	MED	4.3075	17.1	46
490	25	MED	1.9737	9.5	39
			1.1884	5.5	35

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
491	OB SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES - UPPER EXTREMITY	1.5888	5.9	34
492	17 MED	CHEMOTHERAPY WITH ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	2.5533	8.2	37

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NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

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BILLING CODE 4120-03-C

TABLE 6A.—NEW DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
070.20	Viral hepatitis B with hepatic coma, without mention of hepatitis delta	Y	07	205, 206
070.21	Viral hepatitis B with hepatic coma, with hepatitis delta	Y	07	205, 206
070.30	Viral hepatitis B without mention of hepatic coma, without mention of hepatitis delta	Y	07	205, 206
070.31	Viral hepatitis B without mention of hepatic coma, with hepatitis delta	Y	07	205, 206
070.41	Hepatitis C with hepatic coma	Y	07	205, 206
070.42	Hepatitis delta without mention of active hepatitis B disease with hepatic coma	Y	07	205, 206
070.43	Hepatitis E with hepatic coma	Y	07	205, 206
070.49	Other specified viral hepatitis with hepatic coma	Y	07	205, 206
070.51	Hepatitis C without mention of hepatic coma	Y	07	205, 206
070.52	Hepatitis delta without mention of active hepatitis B disease without mention of hepatic coma	Y	07	205, 206
070.53	Hepatitis E without mention of hepatic coma	Y	07	205, 206
070.59	Other specified viral hepatitis without mention of hepatic coma	Y	07	205, 206
176.0	Kaposi's sarcoma, skin	N	09	283, 284
176.1	Kaposi's sarcoma, soft tissue	N	09	283, 284
176.2	Kaposi's sarcoma, palate	N	03	64
176.3	Kaposi's sarcoma, gastrointestinal sites	N	06	172, 173
176.4	Kaposi's sarcoma, lung	Y	04	82
176.5	Kaposi's sarcoma, lymph nodes	Y	17	400, 401, 402, 403, 404
176.8	Kaposi's sarcoma, other specified sites	N	09	283, 284
176.9	Kaposi's sarcoma, unspecified	N	09	283, 284
203.00	Multiple myeloma without mention of remission	Y	17	400, 401, 402, 403, 404
203.01	Multiple myeloma in remission	Y	17	400, 401, 402, 403, 404
203.10	Plasma cell leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
203.11	Plasma cell leukemia in remission	Y	17	400, 401, 402, 403, 404
203.80	Other immunoproliferative neoplasms without mention of remission	Y	17	400, 401, 402, 403, 404
203.81	Other immunoproliferative neoplasms in remission	Y	17	400, 401, 402, 403, 404
204.00	Acute lymphoid leukemia without mention of remission	Y	17	400, 405, 473
204.01	Acute lymphoid leukemia in remission	Y	17	400, 401, 405, 473
204.10	Chronic lymphoid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
204.11	Chronic lymphoid leukemia in remission	Y	17	400, 401, 402, 403, 404
204.20	Subacute lymphoid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
204.21	Subacute lymphoid leukemia in remission	Y	17	400, 401, 402, 403, 404
204.80	Other lymphoid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
204.81	Other lymphoid leukemia in remission	Y	17	400, 401, 402, 403, 404
204.90	Unspecified lymphoid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
204.91	Unspecified lymphoid leukemia in remission	Y	17	400, 401, 402, 403, 404
205.00	Acute myeloid leukemia without mention of remission	Y	17	400, 405, 473
205.01	Acute myeloid leukemia in remission	Y	17	400, 405, 473
205.10	Chronic myeloid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
205.11	Chronic myeloid leukemia in remission	Y	17	400, 401, 402, 403, 404
205.20	Subacute myeloid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
205.21	Subacute myeloid leukemia in remission	Y	17	400, 401, 402, 403, 404
205.30	Myeloid sarcoma without mention of remission	Y	17	400, 401, 402, 403, 404
205.31	Myeloid sarcoma in remission	Y	17	400, 401, 402, 403, 404
205.80	Other myeloid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
205.81	Other myeloid leukemia in remission	Y	17	400, 401, 402, 403, 404
205.90	Unspecified myeloid leukemia without mention of remission	Y	17	400, 401, 402, 403, 404
205.91	Unspecified myeloid leukemia in remission	Y	17	400, 401, 402, 403, 404
206.00	Acute monocytic leukemia without mention of remission	Y	17	400, 405, 473
206.01	Acute monocytic leukemia in remission	Y	17	400, 405, 473
206.10	Chronic monocytic leukemia without mention of remission	Y	17	400, 401, 402, 403, 404

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

Diagnosis code	Description	CC	MDC	DRG
206.11	Chronic monocytic leukemia in remission.....	Y	17	400, 401, 402, 403, 404
206.20	Subacute monocytic leukemia without mention of remission.....	Y	17	400, 401, 402, 403, 404
206.21	Subacute monocytic leukemia in remission.....	Y	17	400, 401, 402, 403, 404
206.80	Other monocytic leukemia without mention of remission.....	Y	17	400, 401, 402, 403, 404
206.81	Other monocytic leukemia in remission.....	Y	17	400, 401, 402, 403, 404
206.90	Unspecified monocytic leukemia without mention of remission.....	Y	17	400, 401, 402, 403, 404
206.91	Unspecified monocytic leukemia in remission.....	Y	17	400, 401, 402, 403, 404
207.00	Acute erythremia and erythroleukemia without mention of remission.....	Y	17	400, 405, 473
207.01	Acute erythremia and erythroleukemia in remission.....	Y	17	400, 405, 473
207.10	Chronic erythremia without mention of remission.....	Y	17	400, 401, 402, 403, 404
207.11	Chronic erythremia in remission.....	Y	17	400, 401, 402, 403, 404
207.20	Megakaryocytic leukemia without mention of remission.....	Y	17	400, 401, 402, 403, 404
207.21	Megakaryocytic leukemia in remission.....	Y	17	400, 401, 402, 403, 404
207.80	Other specified leukemia without mention of remission.....	Y	17	400, 401, 402, 403, 404
207.81	Other specified leukemia in remission.....	Y	17	400, 401, 402, 403, 404
208.00	Acute leukemia of unspecified cell type without mention of remission.....	Y	17	400, 405, 473
208.01	Acute leukemia of unspecified cell type in remission.....	Y	17	400, 405, 473
208.10	Chronic leukemia of unspecified cell type without mention of remission.....	Y	17	400, 401, 402, 403, 404
208.11	Chronic leukemia of unspecified cell type in remission.....	Y	17	400, 401, 402, 403, 404
208.20	Subacute leukemia of unspecified cell type without mention of remission.....	Y	17	400, 401, 402, 403, 404
208.21	Subacute leukemia of unspecified cell type in remission.....	Y	17	400, 401, 402, 403, 404
208.80	Other leukemia of unspecified cell type without mention of remission.....	Y	17	400, 401, 402, 403, 404
208.81	Other leukemia of unspecified cell type in remission.....	Y	17	400, 401, 402, 403, 404
208.90	Unspecified leukemia without mention of remission.....	Y	17	400, 401, 402, 403, 404
208.91	Unspecified leukemia in remission.....	Y	17	400, 401, 402, 403, 404
491.20	Obstructive chronic bronchitis, without mention of acute exacerbation.....	Y	04	88
491.21	Obstructive chronic bronchitis, with acute exacerbation.....	Y	04	88
524.60	Temporomandibular joint disorders, unspecified.....	N	03	185, 186, 187
524.61	Adhesions and ankylosis (bony or fibrous).....	N	03	185, 186, 187
524.62	Arthralgia of temporomandibular joint.....	N	03	185, 186, 187
524.63	Articular disc disorder (reducing or non-reducing).....	N	03	185, 186, 187
524.69	Other specified temporomandibular joint disorders.....	N	03	185, 186, 187
535.00	Acute gastritis, without mention of hemorrhage.....	N	06	182, 183, 184
535.01	Acute gastritis, with hemorrhage.....	Y	06	174, 175
535.10	Atrophic gastritis, without mention of hemorrhage.....	N	06	182, 183, 184
535.11	Atrophic gastritis, with hemorrhage.....	Y	06	174, 175
535.20	Gastric mucosal hypertrophy, without mention of hemorrhage.....	N	06	182, 183, 184
535.21	Gastric mucosal hypertrophy, with hemorrhage.....	Y	06	174, 175
535.30	Alcoholic gastritis, without mention of hemorrhage.....	N	06	182, 183, 184
535.31	Alcoholic gastritis, with hemorrhage.....	Y	06	174, 175
535.40	Other specified gastritis, without mention of hemorrhage.....	N	06	182, 183, 184
535.41	Other specified gastritis, with hemorrhage.....	Y	06	174, 175
535.50	Unspecified gastritis and gastroduodenitis, without mention of hemorrhage.....	N	06	182, 183, 184
535.51	Unspecified gastritis and gastroduodenitis, with hemorrhage.....	Y	06	174, 175
535.60	Duodenitis, without mention of hemorrhage.....	N	06	182, 183, 184
535.61	Duodenitis, with hemorrhage.....	Y	06	174, 175
537.83	Angiodysplasia of stomach and duodenum with hemorrhage.....	Y	06	174, 175
562.02	Diverticulosis of small intestine with hemorrhage.....	Y	06	174, 175
562.03	Diverticulitis of small intestine with hemorrhage.....	Y	06	174, 175
562.12	Diverticulosis of colon with hemorrhage.....	Y	06	174, 175
562.13	Diverticulitis of colon with hemorrhage.....	Y	06	174, 175
568.85	Angiodysplasia of intestine with hemorrhage.....	Y	06	174, 175
645.00	Prolonged pregnancy, unspecified as to episode of care or not applicable ¹	N	14	469
645.01	Prolonged pregnancy, delivered, with or without mention of antepartum condition ¹	N	14	370, 371, 372, 373, 374, 375
645.03	Prolonged pregnancy, antepartum condition or complication ¹	N	14	383, 384
657.00	Polyhydramnios, unspecified as to episode of care or not applicable ¹	N	14	469

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

Diagnosis code	Description	CC	MDC	DRG
657.01	Polyhydramnios, delivered, with or without mention of antepartum condition ¹	N	14	370, 371, 372, 373, 374, 375
657.03	Polyhydramnios, antepartum condition or complication ¹	N	14	383, 384
670.00	Major puerperal infection, unspecified as to episode of care or not applicable ¹	Y	14	383, 384
670.02	Major puerperal infection, delivered, with mention of postpartum complication ¹	Y	14	370, 371, 372, 373, 374, 375
670.04	Major puerperal infection, postpartum condition or complication ¹	Y	14	376, 377
672.00	Pyrexia of unknown origin during the puerperium, unspecified as to episode of care or not applicable ¹	N	14	469
672.02	Pyrexia of unknown origin during the puerperium, delivered, with mention of postpartum complication ¹	N	14	370, 371, 372, 373, 374, 375
672.04	Pyrexia of unknown origin during the puerperium, postpartum condition or complication ¹	N	14	376, 377
702.0	Actinic keratosis	N	09	283, 284
702.1	Seborrheic keratosis	N	09	283, 284
702.8	Other specified dermatoses	N	09	283, 284
760.75	Cocaine affecting fetus via placenta or breast milk	N	15	390

¹ NOTE: Code categories 645, 657, 670, and 672 will now officially use "0" as the fourth-digit. The Grouper currently requires that these codes have a fifth-digit for subclassification, however, now ICD-9-CM also requires it.

TABLE 6b—NEW PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
29.31	Cricopharyngeal myotomy	Y	03	63
29.32	Pharyngeal diverticulectomy	Y	03	154, 155, 156
29.33	Pharyngectomy (partial)	Y	03	63
29.39	Other excision or destruction of lesion or tissue of pharynx	Y	03	154, 155, 156
39.28	Extracranial-intracranial (EC-IC) vascular bypass	Y	01	1, 2, 3
51.23	Laparoscopic cholecystectomy	Y	21	442, 443
60.95	Transurethral balloon dilation of the prostatic urethra	Y	24	486
78.24	Limb shortening procedures, carpals and metacarpals	Y	07	195, 196, 197
78.28	Limb shortening procedures, tarsals and metatarsals	Y	17	198
89.50	Ambulatory cardiac monitoring	N	21	400, 406, 407
96.70	Continuous mechanical ventilation of unspecified duration	(¹)	24	442, 443
96.71	Continuous mechanical ventilation for less than 96 consecutive hours	(¹)	04	475
96.72	Continuous mechanical ventilation for 96 consecutive hours or more	(¹)	04	475

¹ Non-OR procedure that affects DRG assignment.

TABLE 6C—INVALID DIAGNOSIS CODES ¹

Diagnosis code	Description	CC	MDC	DRG
070.2	Viral hepatitis B with hepatic coma	Y	07	205, 206
070.3	Viral hepatitis B without mention of hepatic coma	Y	07	205, 206
070.4	Other specified viral hepatitis with hepatic coma	Y	07	205, 206
070.5	Other specified viral hepatitis without mention of hepatic coma	Y	07	205, 206
203.0	Multiple myeloma	Y	17	400, 401, 402, 403, 404
203.1	Plasma cell leukemia	Y	17	400, 401, 402, 403, 404
203.8	Other immunoproliferative neoplasms	Y	17	400, 401, 402, 403, 404
204.0	Acute lymphoid leukemia	Y	17	400, 405, 473
204.1	Chronic lymphoid leukemia	Y	17	400, 401, 402, 403, 404
204.2	Subacute lymphoid leukemia	Y	17	400, 401, 402, 403, 404
204.8	Other lymphoid leukemia	Y	17	400, 401, 402, 403, 404

TABLE 6C—INVALID DIAGNOSIS CODES ¹—Continued

Diagnosis code	Description	CC	MDC	DRG
204.9	Unspecified lymphoid leukemia.....	Y	17	400, 401, 402, 403, 404
205.0	Acute myeloid leukemia.....	Y	17	400, 405, 473
205.1	Chronic myeloid leukemia.....	Y	17	400, 401, 402, 403, 404
205.2	Subacute myeloid leukemia.....	Y	17	400, 401, 402, 403, 404
205.3	Myeloid sarcoma.....	Y	17	400, 401, 402, 403, 404
205.8	Other myeloid leukemia.....	Y	17	400, 401, 402, 403, 404
205.9	Unspecified myeloid leukemia.....	Y	17	400, 401, 402, 403, 404
206.0	Acute monocytic leukemia.....	Y	17	400, 405, 473
206.1	Chronic monocytic leukemia.....	Y	17	400, 401, 402, 403, 404
206.2	Subacute monocytic leukemia.....	Y	17	400, 401, 402, 403, 404
206.8	Other monocytic leukemia.....	Y	17	400, 401, 402, 403, 404
206.9	Unspecified monocytic leukemia.....	Y	17	400, 401, 402, 403, 404
207.0	Acute erythremia and erythroleukemia.....	Y	17	400, 405, 473
207.1	Chronic erythremia.....	Y	17	400, 401, 402, 403, 404
207.2	Megakaryocytic leukemia.....	Y	17	400, 401, 402, 403, 404
207.8	Other specified leukemia.....	Y	17	400, 401, 402, 403, 404
208.0	Acute leukemia of unspecified cell type.....	Y	17	400, 405, 473
208.1	Chronic leukemia of unspecified cell type.....	Y	17	400, 401, 402, 403, 404
208.2	Subacute leukemia of unspecified cell type.....	Y	17	400, 401, 402, 403, 404
208.8	Other leukemia of unspecified cell type.....	Y	17	400, 401, 402, 403, 404
208.9	Unspecified leukemia.....	Y	17	400, 401, 402, 403, 404
491.2	Obstructive chronic bronchitis.....	Y	04	88
524.8	Temporomandibular joint disorders.....	N	03	185, 186, 187
535.0	Acute gastritis.....	Y	06	182, 183, 184
535.1	Atrophic gastritis.....	N	06	182, 183, 184
535.2	Gastric mucosal hypertrophy.....	N	06	182, 183, 184
535.3	Alcoholic gastritis.....	N	06	182, 183, 184
535.4	Other specified gastritis.....	N	06	182, 183, 184
535.5	Unspecified gastritis and gastroduodenitis.....	N	06	182, 183, 184
535.6	Duodenitis.....	N	06	182, 183, 184
702	Other dermatoses.....	N	09	283, 284

¹ See Table 6a for new diagnosis codes (4 or 5 digits) that will be considered valid by the FY 1992 GROUPER.

TABLE 6d—INVALID PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
13.61	Dissection of primary membranous cataract.....	Y	02	39
13.62	Excision of primary membranous cataract.....	Y	02	39
13.63	Mechanical fragmentation of primary membranous cataract.....	Y	02	39
29.3	Excision or destruction of lesion or tissue of pharynx ¹	Y	03	63
36.00	Removal of coronary artery obstruction, not otherwise specified.....	Y	06	154, 155, 156
51.21	Partial cholecystectomy.....	Y	05	110, 111
			07	193, 194
			21	442, 443
			24	486
78.31	Other change in bone length, scapula, clavicle, and thorax [ribs and sternum].....	Y	04	76, 77
			08	233, 234
			21	442, 443
			24	486
93.92	Other mechanical ventilation.....	(*)	04	475

¹ See Table 6b for new procedure codes (4 digits) that will be considered valid by the FY 1992 GROUPER.

* Non-OR procedure code that affects DRG assignment.

TABLE 6e—REVISED DIAGNOSIS CODE TITLES

Diagnosis code	Description	CC	MDC	DRG
411.81	Coronary occlusion without myocardial infarction.....	Y	05	124, 140
537.82	Angiodysplasia of stomach and duodenum (without mention of hemorrhage).....	N	06	182, 183, 184
562.00	Diverticulosis of small intestine (without mention of hemorrhage).....	N	06	182, 183, 184
562.01	Diverticulitis of small intestine (without mention of hemorrhage).....	N	06	182, 183, 184
562.10	Diverticulosis of colon (without mention of hemorrhage).....	N	06	182, 183, 184
562.11	Diverticulitis of colon (without mention of hemorrhage).....	N	06	182, 183, 184
569.84	Angiodysplasia of intestine (without mention of hemorrhage).....	N	06	188, 189, 190
578.1	Blood in stool.....	Y	06	174, 175

TABLE 6f—REVISED PROCEDURE CODE TITLES

Procedure code	Description	OR	MDC	DRG
36.09	Other removal of coronary artery obstruction.....	Y	05	112
46.85	Dilation of intestine.....	N		
51.22	Cholecystectomy.....	Y	07	195, 196, 197, 198
			17	400, 406, 407
			21	442, 443
60.94	Control of (postoperative) hemorrhage of prostate.....	Y	24	486
			12	344, 345
			21	442, 443
			24	486
78.10	Application of external fixation device, unspecified site.....	Y	08	233, 234
			21	442, 443
			24	486
78.11	Application of external fixation device, scapula, clavicle, and thorax [ribs and sternum].....	Y	04	78, 77
			08	233, 234
			21	442, 443
			24	486
78.12	Application of external fixation device, humerus.....	Y	08	218, 219, 220
			21	442, 443
			24	486
78.13	Application of external fixation device, radius and ulna.....	Y	08	223, 224
			21	442, 443
			24	486
78.14	Application of external fixation device, carpals and metacarpals.....	Y	08	228, 229
			21	441
			24	486
78.15	Application of external fixation device, femur.....	Y	08	210, 211, 212
			21	442, 443
			24	485
78.16	Application of external fixation device, patella.....	Y	08	221, 222
			21	442, 443
			24	486
78.17	Application of external fixation device, tibia and fibula.....	Y	08	218, 219, 220
			21	442, 443
			24	486
78.18	Application of external fixation device, tarsals and metatarsals.....	Y	08	225
			21	442, 443
			24	486
78.19	Application of external fixation device, other.....	Y	08	233, 234
			21	442, 443
			24	486
78.20	Limb shortening procedures, unspecified site.....	Y	08	233, 234
			21	442, 443
			24	486
78.22	Limb shortening procedures, humerus.....	Y	08	218, 219, 220
			21	442, 443
			24	486
78.23	Limb shortening procedures, radius and ulna.....	Y	08	223, 224
			21	442, 443
			24	486
78.25	Limb shortening procedures, femur.....	Y	08	210, 211, 212
			21	442, 443
			24	485
78.27	Limb shortening procedures, tibia and fibula.....	Y	08	218, 219, 220
			21	442, 443
			24	486
78.29	Limb shortening procedures, other.....	Y	08	233, 234
			21	442, 443
			24	486
78.30	Limb lengthening procedures, unspecified site.....	Y	08	233, 234
			21	442, 443
			24	486

TABLE 6f—REVISED PROCEDURE CODE TITLES—Continued

Procedure code	Description	OR	MDC	DRG
78.32	Limb lengthening procedures, humerus.....	Y	08 21 24	218, 219, 220 442, 443 486
78.33	Limb lengthening procedures, radius and ulna.....	Y	08 21 24	223, 224 442, 443 486
78.34	Limb lengthening procedures, carpals and metacarpals.....	Y	08 21 24	228, 229 441 486
78.35	Limb lengthening procedures, femur.....	Y	08 21 24	210, 211, 212 442, 443 485
78.37	Limb lengthening procedures, tibia and fibula.....	Y	08 21 24	218, 219, 220 442, 443 486
78.38	Limb lengthening procedures, tarsals and metatarsals.....	Y	08 21 24	225 442, 443 486
78.39	Limb lengthening procedures, other.....	Y	08 21 24	233, 234 442, 443 486
92.24	Teleradiotherapy using photons.....	N		

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Table 6g - Additions to the CC Exclusions List

CCs that are added to the list are in Table 6g-Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

*01580	07052	07049	*07043	07049	07030	6960	1540
6960	07053	07051	07020	07051	07031	*1398	1541
*01581	07059	07052	07021	07052	07041	07020	1542
6960	*0701	07053	07030	07053	07042	07021	1543
*01582	07020	07059	07031	07059	07043	07030	1548
6960	07021	0706	07041	0706	07049	07031	1550
*01583	07030	0709	07042	0709	07051	07041	1551
6960	07031	7800	07043	7800	07052	07042	1552
*01584	07041	*07031	07049	*07053	07053	07043	1560
6960	07042	07020	07051	07020	07059	07049	1561
*01585	07043	07021	07052	07021	*07889	07051	1562
6960	07049	07030	07053	07030	07020	07052	1568
*01586	07051	07031	07059	07031	07021	07053	1569
6960	07052	07041	0706	07041	07030	07059	1570
*01590	07053	07042	0709	07042	07031	*1628	1571
6960	07059	07043	7800	07043	07041	1764	1572
*01591	*07020	07049	*07049	07049	07042	*1629	1573
6960	07020	07051	07020	07051	07043	1764	1574
*01592	07021	07052	07021	07052	07049	*1658	1578
6960	07030	07053	07030	07053	07051	1764	1579
*01593	07031	07059	07031	07059	07052	*1659	*1764
6960	07041	0706	07041	0706	07053	1764	1622
*01594	07042	0709	07042	0709	07059	*1763	1623
6960	07043	7800	07043	7800	*0798	1500	1624
*01595	07049	*07041	07049	*07059	07020	1501	1625
6960	07051	07020	07051	07020	07021	1502	1628
*01596	07052	07021	07052	07021	07030	1503	1629
6960	07053	07030	07053	07030	07031	1504	1764
*01790	07059	07031	07059	07031	07041	1505	*1765
6960	0706	07041	0706	07041	07042	1508	1765
*01791	0709	07042	0709	07042	07043	1509	1960
6960	7800	07043	7800	07043	07049	1510	1961
*01792	*07021	07049	*07051	07049	07051	1511	1962
6960	07020	07051	07020	07051	07052	1512	1963
*01793	07021	07052	07021	07052	07053	1513	1965
6960	07030	07053	07030	07053	07059	1514	1966
*01794	07031	07059	07031	07059	*0799	1515	1968
6960	07041	0706	07041	0706	07020	1516	1969
*01795	07042	0709	07042	0709	07021	1518	*1958
6960	07043	7800	07043	7800	07030	1519	1764
*01796	07049	*07042	07049	*0706	07031	1520	1765
6960	07051	07020	07051	07020	07041	1521	*1960
*03682	07052	07021	07052	07021	07042	1522	1765
6960	07053	07030	07053	07030	07043	1523	*1961
*05671	07059	07031	07059	07031	07049	1528	1765
6960	0706	07041	0706	07041	07051	1529	*1962
*0700	0709	07042	0709	07042	07052	1530	1765
07020	7800	07043	7800	07043	07053	1531	*1963
07021	*07030	07049	*07052	07049	07059	1532	1765
07030	07020	07051	07020	07051	*09850	1533	*1965
07031	07021	07052	07021	07052	6960	1534	1765
07041	07030	07053	07030	07053	*09851	1535	*1966
07042	07031	07059	07031	07059	6960	1536	1765
07043	07041	0706	07041	*0709	*09859	1537	*1968
07049	07042	0709	07042	07020	6960	1538	1765
07051	07043	7800	07043	07021	*09889	1539	*1969

1765	20810	20801	20800	20781	20780	20721	20720
*1990	20811	20810	20801	20800	20781	20780	20721
1764	20820	20811	20810	20801	20800	20781	20780
1765	20821	20820	20811	20810	20801	20800	20781
*1991	20880	20821	20820	20811	20810	20801	20800
1764	20881	20880	20821	20820	20811	20810	20801
1765	20890	20881	20880	20821	20820	20811	20810
*20300	20891	20890	20881	20880	20821	20820	20811
20300	*20301	20891	20890	20881	20880	20821	20820
20301	20300	*20310	20891	20890	20881	20880	20821
20310	20301	20300	*20311	20891	20890	20881	20880
20311	20310	20301	20300	*20380	20891	20890	20881
20380	20311	20310	20301	20300	*20381	20891	20890
20381	20380	20311	20310	20301	20300	*20400	20891
20400	20381	20380	20311	20310	20301	20300	*20401
20401	20400	20381	20380	20311	20310	20301	20300
20410	20401	20400	20381	20380	20311	20310	20301
20411	20410	20401	20400	20381	20380	20311	20310
20420	20411	20410	20401	20400	20381	20380	20311
20421	20420	20411	20410	20401	20400	20381	20380
20480	20421	20420	20411	20410	20401	20400	20381
20481	20480	20421	20420	20411	20410	20401	20400
20490	20481	20480	20421	20420	20411	20410	20401
20491	20490	20481	20480	20421	20420	20411	20410
20500	20491	20490	20481	20480	20421	20420	20411
20501	20500	20491	20490	20481	20480	20421	20420
20510	20501	20500	20491	20490	20481	20480	20421
20511	20510	20501	20500	20491	20490	20481	20480
20520	20511	20510	20501	20500	20491	20490	20481
20521	20520	20511	20510	20501	20500	20491	20490
20530	20521	20520	20511	20510	20501	20500	20491
20531	20530	20521	20520	20511	20510	20501	20500
20580	20531	20530	20521	20520	20511	20510	20501
20581	20580	20531	20530	20521	20520	20511	20510
20590	20581	20580	20531	20530	20521	20520	20511
20591	20590	20581	20580	20531	20530	20521	20520
20600	20591	20590	20581	20580	20531	20530	20521
20601	20600	20591	20590	20581	20580	20531	20530
20610	20601	20600	20591	20590	20581	20580	20531
20611	20610	20601	20600	20591	20590	20581	20580
20620	20611	20610	20601	20600	20591	20590	20581
20621	20620	20611	20610	20601	20600	20591	20590
20680	20621	20620	20611	20610	20601	20600	20591
20681	20680	20621	20620	20611	20610	20601	20600
20690	20681	20680	20621	20620	20611	20610	20601
20691	20690	20681	20680	20621	20620	20611	20610
20700	20691	20690	20681	20680	20621	20620	20611
20701	20700	20691	20690	20681	20680	20621	20620
20710	20701	20700	20691	20690	20681	20680	20621
20711	20710	20701	20700	20691	20690	20681	20680
20720	20711	20710	20701	20700	20691	20690	20681
20721	20720	20711	20710	20701	20700	20691	20690
20780	20721	20720	20711	20710	20701	20700	20691
20781	20780	20721	20720	20711	20710	20701	20700
20800	20781	20780	20721	20720	20711	20710	20701
20801	20800	20781	20780	20721	20720	20711	20710

20711	20710	20701	20700	20691	20690	20681	20680
20720	20711	20710	20701	20700	20691	20690	20681
20721	20720	20711	20710	20701	20700	20691	20690
20780	20721	20720	20711	20710	20701	20700	20691
20781	20780	20721	20720	20711	20710	20701	20700
20800	20781	20780	20721	20720	20711	20710	20701
20801	20800	20781	20780	20721	20720	20711	20710
20810	20801	20800	20781	20780	20721	20720	20711
20811	20810	20801	20800	20781	20780	20721	20720
20820	20811	20810	20801	20800	20781	20780	20721
20821	20820	20811	20810	20801	20800	20781	20780
20880	20821	20820	20811	20810	20801	20800	20781
20881	20880	20821	20820	20811	20810	20801	20800
20890	20881	20880	20821	20820	20811	20810	20801
20891	20890	20881	20880	20821	20820	20811	20810
*20410	20891	20890	20881	20880	20821	20820	20811
20300	*20411	20891	20890	20881	20880	20821	20820
20301	20300	*20420	20891	20890	20881	20880	20821
20310	20301	20300	*20421	20891	20890	20881	20880
20311	20310	20301	20300	*20480	20891	20890	20881
20380	20311	20310	20301	20300	*20481	20891	20890
20381	20380	20311	20310	20301	20300	*20490	20891
20400	20381	20380	20311	20310	20301	20300	*20491
20401	20400	20381	20380	20311	20310	20301	20300
20410	20401	20400	20381	20380	20311	20310	20301
20411	20410	20401	20400	20381	20380	20311	20310
20420	20411	20410	20401	20400	20381	20380	20311
20421	20420	20411	20410	20401	20400	20381	20380
20480	20421	20420	20411	20410	20401	20400	20381
20481	20480	20421	20420	20411	20410	20401	20400
20490	20481	20480	20421	20420	20411	20410	20401
20491	20490	20481	20480	20421	20420	20411	20410
20500	20491	20490	20481	20480	20421	20420	20411
20501	20500	20491	20490	20481	20480	20421	20420
20510	20501	20500	20491	20490	20481	20480	20421
20511	20510	20501	20500	20491	20490	20481	20480
20520	20511	20510	20501	20500	20491	20490	20481
20521	20520	20511	20510	20501	20500	20491	20490
20530	20521	20520	20511	20510	20501	20500	20491
20531	20530	20521	20520	20511	20510	20501	20500
20580	20531	20530	20521	20520	20511	20510	20501
20581	20580	20531	20530	20521	20520	20511	20510
20590	20581	20580	20531	20530	20521	20520	20511
20591	20590	20581	20580	20531	20530	20521	20520
20600	20591	20590	20581	20580	20531	20530	20521
20601	20600	20591	20590	20581	20580	20531	20530
20610	20601	20600	20591	20590	20581	20580	20531
20611	20610	20601	20600	20591	20590	20581	20580
20620	20611	20610	20601	20600	20591	20590	20581
20621	20620	20611	20610	20601	20600	20591	20590
20680	20621	20620	20611	20610	20601	20600	20591
20681	20680	20621	20620	20611	20610	20601	20600
20690	20681	20680	20621	20620	20611	20610	20601
20691	20690	20681	20680	20621	20620	20611	20610
20700	20691	20690	20681	20680	20621	20620	20611
20701	20700	20691	20690	20681	20680	20621	20620

20621	20620	20611	20610	20601	20600	20591	20590
20680	20621	20620	20611	20610	20601	20600	20591
20681	20680	20621	20620	20611	20610	20601	20600
20690	20681	20680	20621	20620	20611	20610	20601
20691	20690	20681	20680	20621	20620	20611	20610
20700	20691	20690	20681	20680	20621	20620	20611
20701	20700	20691	20690	20681	20680	20621	20620
20710	20701	20700	20691	20690	20681	20680	20621
20711	20710	20701	20700	20691	20690	20681	20680
20720	20711	20710	20701	20700	20691	20690	20681
20721	20720	20711	20710	20701	20700	20691	20690
20780	20721	20720	20711	20710	20701	20700	20691
20781	20780	20721	20720	20711	20710	20701	20700
20800	20781	20780	20721	20720	20711	20710	20701
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20801	20720	20701	29383	29383	29383	29383	29383
20810	20721	20710	*2912	*29289	*30301	*30413	*30451

29381	29381	29381	29381	4539	53531	53531	53531
29382	29382	29382	29382	*4560	53541	53541	53541
29383	29383	29383	29383	53501	53551	53551	53551
*30452	*30490	*30532	*30570	53511	53561	53561	53561
29381	29381	29381	29381	53521	53783	53783	53783
29382	29382	29382	29382	53531	56202	56202	56202
29383	29383	29383	29383	53541	56203	56203	56203
*30453	*30491	*30533	*30571	53551	56212	56212	56212
29381	29381	29381	29381	53561	56213	56213	56213
29382	29382	29382	29382	53783	56985	56985	56985
29383	29383	29383	29383	56202	*5307	*53111	*53131
*30460	*30492	*30540	*30572	56203	53501	53501	53501
29381	29381	29381	29381	56212	53511	53511	53511
29382	29382	29382	29382	56213	53521	53521	53521
29383	29383	29383	29383	56985	53531	53531	53531
*30461	*30493	*30541	*30573	*45989	53541	53541	53541
29381	29381	29381	29381	4538	53551	53551	53551
29382	29382	29382	29382	4539	53561	53561	53561
29383	29383	29383	29383	*4599	53783	53783	53783
*30462	*30500	*30542	*30580	4538	56202	56202	56202
29381	29381	29381	29381	4539	56203	56203	56203
29382	29382	29382	29382	*4911	56212	56212	56212
29383	29383	29383	29383	49120	56213	56213	56213
*30463	*30501	*30543	*30581	49121	56985	56985	56985
29381	29381	29381	29381	*49120	*53100	*53120	*53140
29382	29382	29382	29382	4911	53501	53501	53501
29383	29383	29383	29383	49120	53511	53511	53511
*30470	*30502	*30550	*30582	49121	53521	53521	53521
29381	29381	29381	29381	4918	53531	53531	53531
29382	29382	29382	29382	4919	53541	53541	53541
29383	29383	29383	29383	49320	53551	53551	53551
*30471	*30503	*30551	*30583	49321	53561	53561	53561
29381	29381	29381	29381	*49121	53783	53783	53783
29382	29382	29382	29382	4911	56202	56202	56202
29383	29383	29383	29383	49120	56203	56203	56203
*30472	*30520	*30552	*30590	49121	56212	56212	56212
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29383	29383	29383	29383	49320	*53101	*53121	*53141
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*30480	*30522	*30560	*30592	*4919	53541	53541	53541
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29382	29382	29382	29382	*49321	56212	56212	56212
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*30482	*30530	*30562	*4538	49121	56985	56985	56985
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*30483	*30531	*30563	4538	53521	53521	53521	53521

53291	53120	53501	53321	53151	53561	53360	53201
53300	53121	53511	53331	53160	53783	53361	53210
53301	53131	53521	53340	53161	56202	53371	53211
53310	53140	53531	53341	53171	56203	53391	53220
53311	53141	53541	53350	53191	56212	53400	53221
53320	53150	53551	53351	53200	56213	53401	53231
53321	53151	53561	53360	53201	5693	53410	53240
53331	53160	53783	53361	53210	56985	53411	53241
53340	53161	56202	53371	53211	5780	53420	53250
53341	53171	56203	53391	53220	5781	53421	53251
53350	53191	56212	53400	53221	5789	53431	53260
53351	53200	56213	53401	53231	9981	53440	53261
53360	53201	5693	53410	53240	*53541	53441	53271
53361	53210	56985	53411	53241	4560	53450	53291
53371	53211	5780	53420	53250	5307	53451	53300
53391	53220	5781	53421	53251	53100	53460	53301
53400	53221	5789	53431	53260	53101	53461	53310
53401	53231	9981	53440	53261	53110	53471	53311
53410	53240	*53521	53441	53271	53111	53491	53320
53411	53241	4560	53450	53291	53120	53501	53321
53420	53250	5307	53451	53300	53121	53511	53331
53421	53251	53100	53460	53301	53131	53521	53340
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53440	53261	53110	53471	53311	53141	53541	53350
53441	53271	53111	53491	53320	53150	53551	53351
53450	53291	53120	53501	53321	53151	53561	53360
53451	53300	53121	53511	53331	53160	53783	53361
53460	53301	53131	53521	53340	53161	56202	53371
53461	53310	53140	53531	53341	53171	56203	53391
53471	53311	53141	53541	53350	53191	56212	53400
53491	53320	53150	53551	53351	53200	56213	53401
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53521	53340	53161	56202	53371	53211	5780	53420
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53551	53351	53200	56213	53401	53231	9981	53440
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56202	53371	53211	5780	53420	53250	5307	53451
56203	53391	53220	5781	53421	53251	53100	53460
56212	53400	53221	5789	53431	53260	53101	53461
56213	53401	53231	9981	53440	53261	53110	53471
5693	53410	53240	*53531	53441	53271	53111	53491
56985	53411	53241	4560	53450	53291	53120	53501
5780	53420	53250	5307	53451	53300	53121	53511
5781	53421	53251	53100	53460	53301	53131	53521
5789	53431	53260	53101	53461	53310	53140	53531
9981	53440	53261	53110	53471	53311	53141	53541
*53511	53441	53271	53111	53491	53320	53150	53551
4560	53450	53291	53120	53501	53321	53151	53561
5307	53451	53300	53121	53511	53331	53160	53783
53100	53460	53301	53131	53521	53340	53161	56202
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53110	53471	53311	53141	53541	53350	53191	56212
53111	53491	53320	53150	53551	53351	53200	56213

5693	53410	53240	*56202	53441	53271	53111	53491
56985	53411	53241	4560	53450	53291	53120	53501
5780	53420	53250	5307	53451	53300	53121	53511
5781	53421	53251	53100	53460	53301	53131	53521
5789	53431	53260	53101	53461	53310	53140	53531
9981	53440	53261	53110	53471	53311	53141	53541
*53561	53441	53271	53111	53491	53320	53150	53551
4560	53450	53291	53120	53501	53321	53151	53561
5307	53451	53300	53121	53511	53331	53160	53783
53100	53460	53301	53131	53521	53340	53161	56202
53101	53461	53310	53140	53531	53341	53171	56203
53110	53471	53311	53141	53541	53350	53191	56212
53111	53491	53320	53150	53551	53351	53200	56213
53120	53501	53321	53151	53561	53360	53201	5693
53121	53511	53331	53160	53783	53361	53210	56985
53131	53521	53340	53161	56202	53371	53211	5780
53140	53531	53341	53171	56203	53391	53220	5781
53141	53541	53350	53191	56212	53400	53221	5789
53150	53551	53351	53200	56213	53401	53231	9981
53151	53561	53360	53201	5693	53410	53240	*56213
53160	53783	53361	53210	56985	53411	53241	4560
53161	56202	53371	53211	5780	53420	53250	5307
53171	56203	53391	53220	5781	53421	53251	53100
53191	56212	53400	53221	5789	53431	53260	53101
53200	56213	53401	53231	9981	53440	53261	53110
53201	5693	53410	53240	*56203	53441	53271	53111
53210	56985	53411	53241	4560	53450	53291	53120
53211	5780	53420	53250	5307	53451	53300	53121
53220	5781	53421	53251	53100	53460	53301	53131
53221	5789	53431	53260	53101	53461	53310	53140
53231	9981	53440	53261	53110	53471	53311	53141
53240	*53783	53441	53271	53111	53491	53320	53150
53241	4560	53450	53291	53120	53501	53321	53151
53250	5307	53451	53300	53121	53511	53331	53160
53251	53100	53460	53301	53131	53521	53340	53161
53260	53101	53461	53310	53140	53531	53341	53171
53261	53110	53471	53311	53141	53541	53350	53191
53271	53111	53491	53320	53150	53551	53351	53200
53291	53120	53501	53321	53151	53561	53360	53201
53300	53121	53511	53331	53160	53783	53361	53210
53301	53131	53521	53340	53161	56202	53371	53211
53310	53140	53531	53341	53171	56203	53391	53220
53311	53141	53541	53350	53191	56212	53400	53221
53320	53150	53551	53351	53200	56213	53401	53231
53321	53151	53561	53360	53201	5693	53410	53240
53331	53160	53783	53361	53210	56985	53411	53241
53340	53161	56202	53371	53211	5780	53420	53250
53341	53171	56203	53391	53220	5781	53421	53251
53350	53191	56212	53400	53221	5789	53431	53260
53351	53200	56213	53401	53231	9981	53440	53261
53360	53201	5693	53410	53240	*56212	53441	53271
53361	53210	56985	53411	53241	4560	53450	53291
53371	53211	5780	53420	53250	5307	53451	53300
53391	53220	5781	53421	53251	53100	53460	53301
53400	53221	5789	53431	53260	53101	53461	53310
53401	53231	9981	53440	53261	53110	53471	53311

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53331	*56985	53441	53521	6960	6960	6960	6960
53340	4560	53450	53531	*71122	*71150	*71178	*71216
53341	5307	53451	53541	6960	6960	6960	6960
53350	53100	53460	53551	*71123	*71151	*71179	*71217
53351	53101	53461	53561	6960	6960	6960	6960
53360	53110	53471	53783	*71124	*71152	*71180	*71218
53361	53111	53491	56202	6960	6960	6960	6960
53371	53120	53501	56203	*71125	*71153	*71181	*71219
53391	53121	53511	56212	6960	6960	6960	6960
53400	53131	53521	56213	*71126	*71154	*71182	*71220
53401	53140	53531	56985	6960	6960	6960	6960
53410	53141	53541	*6960	*71127	*71155	*71183	*71221
53411	53150	53551	6960	6960	6960	6960	6960
53420	53151	53561	*71100	*71128	*71156	*71184	*71222
53421	53160	53783	6960	6960	6960	6960	6960
53431	53161	56202	*71101	*71129	*71157	*71185	*71223
53440	53171	56203	6960	6960	6960	6960	6960
53441	53191	56212	*71102	*71130	*71158	*71186	*71224
53450	53200	56213	6960	6960	6960	6960	6960
53451	53201	5693	*71103	*71131	*71159	*71187	*71225
53460	53210	56985	6960	6960	6960	6960	6960
53461	53211	5780	*71104	*71132	*71160	*71188	*71226
53471	53220	5781	6960	6960	6960	6960	6960
53491	53221	5789	*71105	*71133	*71161	*71189	*71227
53501	53231	9981	6960	6960	6960	6960	6960
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53521	53241	53501	6960	6960	6960	6960	6960
53531	53250	53511	*71107	*71135	*71163	*71191	*71229
53541	53251	53521	6960	6960	6960	6960	6960
53551	53260	53531	*71108	*71136	*71164	*71192	*71230
53561	53261	53541	6960	6960	6960	6960	6960
53783	53271	53551	*71109	*71137	*71165	*71193	*71231
56202	53291	53561	6960	6960	6960	6960	6960
56203	53300	53783	*71110	*71138	*71166	*71194	*71232
56212	53301	56202	6960	6960	6960	6960	6960
56213	53310	56203	*71111	*71139	*71167	*71195	*71233
5693	53311	56212	6960	6960	6960	6960	6960
56985	53320	56213	*71112	*71140	*71168	*71196	*71234
5780	53321	56985	6960	6960	6960	6960	6960
5781	53331	*5781	*71113	*71141	*71169	*71197	*71235
5789	53340	53501	6960	6960	6960	6960	6960
9981	53341	53511	*71114	*71142	*71170	*71198	*71236
*5693	53350	53521	6960	6960	6960	6960	6960
53501	53351	53531	*71115	*71143	*71171	*71199	*71237
53511	53360	53541	6960	6960	6960	6960	6960
53521	53361	53551	*71116	*71144	*71172	*71210	*71238
53531	53371	53561	6960	6960	6960	6960	6960
53541	53391	53783	*71117	*71145	*71173	*71211	*71239
53551	53400	56202	6960	6960	6960	6960	6960
53561	53401	56203	*71118	*71146	*71174	*71212	*71280
53783	53410	56212	6960	6960	6960	6960	6960
56202	53411	56213	*71119	*71147	*71175	*71213	*71281
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56212	53421	*5789	*71120	*71148	*71176	*71214	*71282

6960	6960	6960	6960	6960	6960	6960	6960
*71283	*71509	*71595	*71624	*71652	*71691	*71918	*71946
6960	6960	6960	6960	6960	6960	6960	6960
*71284	*71510	*71596	*71625	*71653	*71692	*71919	*71947
6960	6960	6960	6960	6960	6960	6960	6960
*71285	*71518	*71597	*71626	*71654	*71693	*71920	*71948
6960	6960	6960	6960	6960	6960	6960	6960
*71286	*71520	*71598	*71627	*71655	*71694	*71921	*71949
6960	6960	6960	6960	6960	6960	6960	6960
*71287	*71521	*71600	*71628	*71656	*71695	*71922	*71950
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*71288	*71522	*71601	*71629	*71657	*71696	*71923	*71951
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*71289	*71523	*71602	*71630	*71658	*71697	*71924	*71952
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*71290	*71524	*71603	*71631	*71659	*71698	*71925	*71953
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*71291	*71525	*71604	*71632	*71660	*71699	*71926	*71954
6960	6960	6960	6960	6960	6960	6960	6960
*71292	*71526	*71605	*71633	*71661	*71800	*71927	*71955
6960	6960	6960	6960	6960	6960	6960	6960
*71293	*71527	*71606	*71634	*71662	*71801	*71928	*71956
6960	6960	6960	6960	6960	6960	6960	6960
*71294	*71528	*71607	*71635	*71663	*71802	*71929	*71957
6960	6960	6960	6960	6960	6960	6960	6960
*71295	*71530	*71608	*71636	*71664	*71803	*71930	*71958
6960	6960	6960	6960	6960	6960	6960	6960
*71296	*71531	*71609	*71637	*71665	*71804	*71931	*71959
6960	6960	6960	6960	6960	6960	6960	6960
*71297	*71532	*71610	*71638	*71666	*71805	*71932	*71960
6960	6960	6960	6960	6960	6960	6960	6960
*71298	*71533	*71611	*71639	*71667	*71807	*71933	*71961
6960	6960	6960	6960	6960	6960	6960	6960
*71299	*71534	*71612	*71640	*71668	*71808	*71934	*71962
6960	6960	6960	6960	6960	6960	6960	6960
*7130	*71535	*71613	*71641	*71680	*71900	*71935	*71963
6960	6960	6960	6960	6960	6960	6960	6960
*7131	*71536	*71614	*71642	*71681	*71901	*71936	*71964
6960	6960	6960	6960	6960	6960	6960	6960
*7132	*71537	*71615	*71643	*71682	*71902	*71937	*71965
6960	6960	6960	6960	6960	6960	6960	6960
*7133	*71538	*71616	*71644	*71683	*71903	*71938	*71966
6960	6960	6960	6960	6960	6960	6960	6960
*7134	*71580	*71617	*71645	*71684	*71904	*71939	*71967
6960	6960	6960	6960	6960	6960	6960	6960
*7135	*71589	*71618	*71646	*71685	*71905	*71940	*71968
6960	6960	6960	6960	6960	6960	6960	6960
*7136	*71590	*71619	*71647	*71686	*71906	*71941	*71969
6960	6960	6960	6960	6960	6960	6960	6960
*7137	*71591	*71620	*71648	*71687	*71907	*71942	*71970
6960	6960	6960	6960	6960	6960	6960	6960
*7138	*71592	*71621	*71649	*71688	*71908	*71943	*71975
6960	6960	6960	6960	6960	6960	6960	6960
*7140	*71593	*71622	*71650	*71689	*71909	*71944	*71976
6960	6960	6960	6960	6960	6960	6960	6960
*71500	*71594	*71623	*71651	*71690	*71910	*71945	*71977

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Table 6h - Deletions to the CC Exclusions List

CCs that are deleted from the list are in Table 6h-Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

*01100	*01111	*01122	*01133	*01144	*01155	*01166	*01180
500	500	500	500	500	500	500	500
501	501	501	501	501	501	501	501
502	502	502	502	502	502	502	502
503	503	503	503	503	503	503	503
504	504	504	504	504	504	504	504
505	505	505	505	505	505	505	505
*01101	*01112	*01123	*01134	*01145	*01156	*01170	*01181
500	500	500	500	500	500	500	500
501	501	501	501	501	501	501	501
502	502	502	502	502	502	502	502
503	503	503	503	503	503	503	503
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*01105	*01116	*01130	*01141	*01152	*01163	*01174	*01185
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*01106	*01120	*01131	*01142	*01153	*01164	*01175	*01186
500	500	500	500	500	500	500	500
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502	502	502	502	502	502	502	502
503	503	503	503	503	503	503	503
504	504	504	504	504	504	504	504
505	505	505	505	505	505	505	505
*01110	*01121	*01132	*01143	*01154	*01165	*01176	*01190
500	500	500	500	500	500	500	500
501	501	501	501	501	501	501	501
502	502	502	502	502	502	502	502
503	503	503	503	503	503	503	503
504	504	504	504	504	504	504	504
505	505	505	505	505	505	505	505

*01191	*01202	*01213	*01284	*01795	0704	501	6198
500	500	500	500	500	0705	502	*1363
501	501	501	501	501	0706	503	500
502	502	502	502	502	0709	504	501
503	503	503	503	503	7800	505	502
504	504	504	504	504	*0704	*11515	503
505	505	505	505	505	0702	500	504
*01192	*01203	*01214	*01285	*01796	0703	501	505
500	500	500	500	500	0704	502	*1398
501	501	501	501	501	0705	503	0702
502	502	502	502	502	0706	504	0703
503	503	503	503	503	0709	505	0704
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505	505	505	505	505	*0705	500	*2030
*01193	*01204	*01215	*01286	*0212	0702	501	2030
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501	501	501	501	501	0704	503	2038
502	502	502	502	502	0705	504	2040
503	503	503	503	503	0706	505	2041
504	504	504	504	504	0709	*1221	2042
505	505	505	505	505	7800	500	2048
*01194	*01205	*01216	*01790	*0310	*0706	501	2049
500	500	500	500	500	0702	502	2050
501	501	501	501	501	0703	503	2051
502	502	502	502	502	0704	504	2052
503	503	503	503	503	0705	505	2053
504	504	504	504	504	*0709	*1304	2058
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*01195	*01206	*01280	*01791	*0391	0703	501	2060
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*01196	*01210	*01281	*01792	*0700	0705	6072	2072
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502	502	502	502	0704	0703	6191	2081
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505	505	505	505	0702	*0799	*1318	2089
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501	501	501	501	0705	0704	6073	2031
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501	501	501	501	0709	6191	6072	2050
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2082	2080	2072	2070	2068	2061	2059	2053
2088	2081	2078	2071	2069	2062	2060	2058
2089	2082	2080	2072	2070	2068	2061	2059
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2042	2040	2031	*2050	2088	2081	2078	2071
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2049	2042	2040	2031	*2052	2088	2081	2078
2050	2048	2041	2038	2030	2089	2082	2080
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2052	2050	2048	2041	2038	2030	2089	2082
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2062	2060	2058	2052	2050	2048	2041	2038
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2049	2042	2040	2031	*2053	2088	2081	2078
2050	2048	2041	2038	2030	2089	2082	2080
2051	2049	2042	2040	2031	*2059	2088	2081
2052	2050	2048	2041	2038	2030	2089	2082

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2062	2060	2058	2052	2050	2048	2041	*3980
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2069	2062	2060	2058	2052	2050	2048	*4220
2070	2068	2061	2059	2053	2051	2049	4290
2071	2069	2062	2060	2058	2052	2050	*42290
2072	2070	2068	2061	2059	2053	2051	4290
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2080	2072	2070	2068	2061	2059	2053	4290
2081	2078	2071	2069	2062	2060	2058	*42292
2082	2080	2072	2070	2068	2061	2059	4290
2088	2081	2078	2071	2069	2062	2060	*42293
2089	2082	2080	2072	2070	2068	2061	4290
*2069	2088	2081	2078	2071	2069	2062	*42299
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2031	*2071	2088	2081	2078	2071	2069	*4290
2038	2030	2089	2082	2080	2072	2070	4290
2040	2031	*2078	2088	2081	2078	2071	*42971
2041	2038	2030	2089	2082	2080	2072	4290
2042	2040	2031	*2081	2088	2081	2078	*42979
2048	2041	2038	2030	2089	2082	2080	4290
2049	2042	2040	2031	*2088	2088	2081	*4470
2050	2048	2041	2038	2030	2089	2082	4470
2051	2049	2042	2040	2031	*2398	2088	*4480
2052	2050	2048	2041	2038	2030	2089	4480
2053	2051	2049	2042	2040	2031	*25070	*4572
2054	2052	2050	2048	2041	2038	4470	4572
2059	2053	2051	2049	2042	2040	4480	*45989
2060	2058	2052	2050	2048	2041	*25071	4290
2061	2059	2053	2051	2049	2042	4470	4470
2062	2060	2058	2052	2050	2048	4480	4480
2068	2061	2059	2053	2051	2049	*25080	4572
2069	2062	2060	2058	2052	2050	4470	*4599
2070	2068	2061	2059	2053	2051	4480	4290
2071	2069	2062	2060	2058	2052	*25081	4470
2072	2070	2068	2061	2059	2053	4470	4480
2078	2071	2069	2062	2060	2058	4480	4572
2080	2072	2070	2068	2061	2059	*25090	*4800

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*4801	*4823	*4846	49320	503	503	503	503
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501	501	501	*4918	505	505	505	505
502	502	502	4912	*4956	*503	*5069	*5171
503	503	503	*4919	500	500	500	500
504	504	504	4912	501	501	501	501
505	505	505	*49320	502	502	502	502
*4802	*4824	*4847	4912	503	503	503	503
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*4808	*4828	*4848	503	503	503	503	503
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*4809	*4829	*485	503	503	503	503	503
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*481	*483	*486	503	503	503	503	503
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502	502	502	*4952	*496	*5061	*5080	*5199
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*4820	*4841	*4870	503	503	503	503	503
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504	504	504	501	501	501	501	9981
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*4821	*4843	*4871	503	503	503	503	5350
500	500	500	504	504	504	504	*5352
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502	502	502	*4954	*501	*5063	*5088	*5353
503	503	503	500	500	500	500	5350
504	504	504	501	501	501	501	*5354
505	505	505	502	502	502	502	5350
*4822	*4845	*4911	503	503	503	503	*5355

5350	6071	6071	*6259	6071
*5711	6072	6072	6190	6072
5711	6073	6073	6191	6073
*5738	*5993	*6079	6192	*7539
5711	6071	6071	6198	6071
*5739	6072	6072	*6298	6072
5711	6073	6073	6190	6073
*5970	*5994	*6084	6191	6190
6071	6071	6071	6192	6191
6072	6072	6072	6198	6192
6073	6073	6073	*6299	6198
*59780	*5995	*60881	6190	*7809
6071	6071	6071	6191	7880
6072	6072	6072	6192	7908
6073	6073	6073	6198	*7880
*59781	*5996	*60883	*683	7880
6071	6071	6071	683	*7889
6072	6072	6072	*7080	7880
6073	6073	6073	7080	*7907
*59789	*5998	*60885	*7081	7908
6071	6071	6071	7080	*7908
6072	6072	6072	*7098	7908
6073	6073	6073	683	*7909
*59800	*5999	*60886	7080	7908
6071	6071	6071	*74861	*7998
6072	6072	6072	500	7880
6073	6073	6073	501	7908
*59801	*6070	*60889	502	
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6072	6072	6072	504	
6073	6073	6073	505	
*5981	*6071	*6089	*7528	
6071	6071	6071	6071	
6072	6072	6072	6072	
6073	6073	6073	6073	
*5982	*6072	*6190	6190	
6071	6071	6190	6191	
6072	6072	*6191	6192	
6073	6073	6191	6198	
*5988	*6073	*6192	*7529	
6071	6071	6192	6071	
6072	6072	*6198	6072	
6073	6073	6190	6073	
*5989	*60781	6191	6190	
6071	6071	6192	6191	
6072	6072	6198	6192	
6073	6073	*6199	6198	
*5990	*60782	6190	*7536	
6071	6071	6191	6071	
6072	6072	6192	6072	
6073	6073	6198	6073	
*5991	*60783	*6258	*7537	
6071	6071	6190	6071	
6072	6072	6191	6072	
6073	6073	6192	6073	
*5992	*60789	6198	*7538	

TABLE 6i.—HIV-RELATED CONDITIONS
NECESSARY FOR ASSIGNMENT TO MDC 25

Diagnosis code	Description	Major
136.8.....	Microsporidiosis.....	Yes.
178.0-176.9.....	Kaposi's sarcoma.....	Yes.
323.8.....	Other causes of encephalitis.....	Yes.
421.0; 421.9.....	Endocarditis.....	Yes.
422.90-422.99.....	Myocarditis.....	Yes.
425.9.....	Secondary cardiomyopathy.....	No.

TABLE 6i.—HIV-RELATED CONDITIONS
NECESSARY FOR ASSIGNMENT TO MDC
25—Continued

Diagnosis code	Description	Major
480.8.....	Viral pneumonia, NEC.....	Yes.
481.....	Pneumococcal.....	Yes.
482.0-482.9.....	Other bacterial pneumonia.....	Yes.

TABLE 6i.—HIV-RELATED CONDITIONS
NECESSARY FOR ASSIGNMENT TO MDC
25—Continued

Diagnosis code	Description	Major
580.0-583.9.....	Nephritis and nephropathy.....	No.

BILLING CODE 4120-03-M

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
001	27466	17.1497	5	7	12	21	35
002	5622	16.3527	4	7	12	20	33
003	4	16.7500	3	3	6	17	41
004	4907	14.2710	3	6	10	17	29
005	44493	7.0902	3	4	5	8	13
006	1101	2.8928	1	1	2	3	6
007	5637	22.2873	2	6	12	24	50
008	2953	4.8019	1	1	3	6	11
009	1700	10.9359	2	4	7	13	22
010	19302	11.2941	2	4	8	14	24
011	3850	6.5021	1	2	5	8	13
012	21844	10.4511	2	4	7	12	20
013	5268	9.0452	3	4	7	10	15
014	323568	10.2829	2	4	7	12	20
015	131952	5.5098	2	4	7	12	20
016	11097	9.4402	3	3	4	7	10
017	3424	5.8744	2	3	4	11	18
018	13081	8.0548	2	4	5	7	11
019	7245	5.3230	1	2	6	10	15
020	7091	12.4578	2	5	9	16	25
021	878	10.2528	3	5	7	12	19
022	9788	5.8617	2	3	4	7	10
023	3333	6.6244	1	3	5	8	13
024	51667	7.6885	2	3	5	9	15
025	23296	4.5506	1	2	3	5	8
026	48	4.4583	1	2	3	6	8
027	2492	8.2472	1	1	5	10	19
028	7416	9.7044	1	3	6	12	20
029	3591	4.7307	1	2	3	6	10
030	1	2.0000	2	2	2	2	2
031	3789	6.5220	1	2	4	8	13
032	2974	3.6078	1	1	3	4	7
034	12850	8.6969	2	3	6	10	18
035	3851	5.4845	1	2	4	8	10
036	20897	2.5713	1	1	2	3	4
037	2849	4.4486	1	2	3	5	9
038	845	2.7293	1	1	2	3	3
039	12600	1.9096	1	1	1	2	3
040	3824	3.1653	1	1	1	2	3
042	21752	2.7113	1	1	2	3	5
043	213	4.4085	2	2	4	5	7
044	2104	6.9598	3	4	5	8	12
045	2652	4.5147	1	2	4	6	8
046	2903	6.0331	1	2	4	5	8
047	2079	4.4449	1	1	3	5	8
048	2	8.0000	6	6	10	10	10
049	3806	11.1117	2	4	7	14	24
050	5244	2.8398	1	1	2	3	5
051	669	2.8595	1	1	2	3	5
052	67	4.8209	1	2	3	4	8
053	7515	3.1271	1	1	2	3	7

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
055	4997	2.6636	1	1	1	2	5
056	852	3.0493	1	1	2	3	6
057	714	5.5658	1	2	3	7	13
059	216	2.1620	1	1	1	2	4
061	385	4.6857	1	1	2	5	12
063	4854	8.1502	1	2	4	7	12
064	4767	9.1548	1	2	5	11	21
065	30414	4.1762	1	2	3	5	8
066	8485	4.1807	1	2	3	5	7
067	444	5.4032	2	3	4	7	10
068	17778	8.2091	2	3	5	7	11
069	8301	4.8420	2	3	4	6	8
070	34	4.7059	2	2	4	4	7
071	155	6.2518	2	3	5	7	14
072	671	4.7720	2	2	3	6	10
073	7121	6.1012	1	2	3	8	12
075	29927	14.0844	6	8	11	17	26
076	36943	14.8069	4	7	11	18	28
077	3828	6.8835	1	2	5	9	15
078	25837	10.3078	4	7	9	12	17
079	124318	12.2080	4	6	9	15	23
080	10057	8.3190	3	5	7	10	15
081	6	8.6667	4	6	6	8	8
082	70714	9.6573	2	4	7	12	20
083	7239	8.1799	2	4	7	10	15
084	1962	5.1860	1	2	4	6	9
085	16710	9.0594	2	4	7	11	18
086	2065	5.6470	1	3	4	7	11
087	66639	8.3889	2	4	7	10	16
088	133686	7.4853	3	4	6	9	14
089	383887	8.9507	3	5	7	11	16
090	54354	6.4264	3	4	6	8	11
091	41	5.4878	2	2	4	8	11
092	8901	8.9256	3	4	7	11	17
093	1571	6.7257	2	4	5	8	12
094	9045	9.3280	3	4	7	12	18
095	1302	5.7005	2	3	4	7	10
096	192857	7.2432	3	3	4	7	13
097	36851	5.3965	2	3	5	9	9
098	12	6.3333	2	2	5	7	9
099	32042	5.6089	2	2	4	8	11
100	11801	3.1938	1	2	3	4	6
101	19800	7.1789	2	2	3	4	9
102	4236	4.5035	1	2	3	5	14
103	188	33.4415	13	16	24	38	62
104	14942	22.2889	9	13	18	26	40
105	14137	16.2138	8	9	12	18	29
106	58228	15.6380	8	10	13	18	24
107	56915	13.8186	7	8	10	15	23
108	7728	16.5612	7	9	13	19	29
110	46714	14.5029	3	8	11	17	27

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TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
111	7045	8.8605	3	7	8	10	14
112	100174	6.4193	2	3	5	8	13
113	35541	19.2541	6	9	14	23	38
114	8399	12.6348	3	6	10	16	24
115	7155	14.3913	6	8	12	17	25
116	58209	7.5178	2	3	6	9	14
117	3153	5.5490	1	2	4	7	11
118	7593	4.3653	1	1	2	5	9
119	3861	6.2191	1	2	3	7	15
120	32232	12.8703	2	3	8	17	29
121	131401	10.0088	4	6	9	12	17
122	98699	7.2577	2	5	7	9	12
123	55093	5.4952	1	1	3	7	13
124	107763	5.9234	1	2	5	8	12
125	90651	3.1531	1	1	2	4	7
126	3821	21.8802	5	10	18	30	42
127	565431	7.9022	3	4	6	9	15
128	25006	8.5476	4	6	8	10	14
129	6682	4.6764	1	1	1	6	12
130	66116	8.2288	2	4	7	10	15
131	26814	6.0203	1	3	6	8	11
132	19447	6.3039	1	2	5	8	12
133	6904	4.8318	1	2	4	6	9
134	30150	5.1580	2	3	4	6	8
135	6438	7.0393	2	3	5	8	13
136	1485	4.2424	1	2	3	5	8
137	173853	6.0647	2	3	5	7	11
138	71436	3.8770	1	2	3	5	7
139	347524	4.6196	2	2	4	6	8
140	75901	5.7900	2	3	4	7	10
141	38885	3.9768	1	2	3	5	7
142	109168	3.4402	1	2	3	4	6
143	53270	7.3776	2	3	5	8	13
144	7727	4.3367	1	2	3	5	8
145	6878	14.3516	8	9	12	16	24
146	1870	9.7663	6	8	13	19	29
147	133609	16.6827	7	9	13	19	29
148	19680	9.7127	6	7	9	11	14
149	20275	14.0251	6	8	11	17	24
150	5359	8.0537	3	5	7	10	13
151	4445	10.7633	4	6	9	12	19
152	2284	7.4444	4	5	7	9	11
153	38376	18.7974	6	9	14	22	36
154	4809	9.1042	4	6	8	11	15
155	3	14.3333	8	8	12	23	23
156	13693	6.6466	2	3	5	8	13
157	11710	3.1646	1	2	2	4	6
158	15481	6.5490	2	3	5	8	12
159	13493	3.6025	1	2	3	5	7
160	27143	4.6105	1	2	3	5	7
161	29151	2.2723	1	1	2	3	4

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEE V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
163	11	4.9091	1	2	4	7	10
164	4479	11.6073	5	7	10	13	19
165	1931	7.5857	4	5	7	9	11
166	2588	7.6001	3	4	6	9	13
167	2241	4.4052	2	3	4	5	7
168	2004	6.8223	1	2	4	7	15
169	1756	2.7323	1	1	2	3	6
170	12108	16.3819	3	7	12	20	33
171	1531	7.4513	1	3	6	9	15
172	31047	10.4293	2	4	7	13	21
173	3704	5.4495	1	2	4	7	11
174	149751	7.1028	2	3	5	8	13
175	24151	4.5138	2	3	4	6	8
176	12552	7.7957	2	4	6	9	15
177	18134	6.3185	2	3	5	8	11
178	7138	4.5168	2	3	4	6	8
179	7910	8.5838	3	5	7	11	18
180	63702	7.7422	2	4	6	9	15
181	22815	4.6813	2	3	4	6	8
182	250118	6.3840	2	3	5	8	12
183	79323	4.3377	1	2	4	5	8
184	50	3.5600	1	2	3	4	5
185	3819	6.3024	1	3	4	6	13
186	1	6.0000	6	8	2	6	6
187	1174	3.5843	1	1	2	4	8
188	47042	7.4071	2	3	5	9	15
189	9861	3.9100	1	1	3	5	8
190	118	5.4068	2	3	4	7	10
191	10580	20.3824	7	10	15	25	40
192	1202	10.2571	4	6	9	12	18
193	12585	16.8587	7	10	14	20	30
194	1735	10.3793	4	7	9	13	18
195	18954	12.5419	6	8	10	14	21
196	2486	8.3086	4	6	8	10	13
197	62437	9.5874	4	5	8	11	17
198	39052	5.2747	2	3	5	6	9
199	2854	15.2779	5	7	12	19	30
200	1678	14.4094	2	5	10	18	30
201	4963	12.6428	3	5	9	16	26
202	14864	9.9542	2	4	8	12	20
203	29173	9.8980	2	4	7	10	15
204	35963	8.1078	2	4	6	10	19
205	20349	9.3989	2	4	7	12	19
206	2628	5.2585	1	2	4	7	11
207	36206	7.2343	2	3	6	9	14
208	14352	4.1495	1	2	3	5	8
209	241325	11.2658	6	8	10	13	17
210	105589	13.8143	6	8	11	15	23
211	31842	10.1864	5	7	9	12	16
212	15	6.1333	2	3	5	6	12
213	5515	13.2655	3	6	10	16	26

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEE V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
214	35870	11.2896	4	6	9	13	21
215	35488	6.8875	3	4	6	8	12
216	5230	14.5799	2	5	11	19	31
217	14976	21.8885	4	8	15	28	47
218	18439	9.5070	3	5	7	11	17
219	17671	5.6412	2	3	5	7	10
220	7	4.7143	1	2	3	7	7
221	4339	11.2913	2	4	8	14	23
222	5485	5.4651	1	2	4	7	11
223	13088	4.4053	1	2	3	5	8
224	8452	3.0482	1	2	3	4	5
225	11033	5.1850	1	2	3	6	11
226	5583	9.5956	2	3	6	11	21
227	7515	3.9236	1	2	3	5	8
228	4738	3.9058	1	1	2	4	8
229	3073	2.7595	1	1	2	3	5
230	3588	6.9041	1	2	4	8	15
231	8351	6.7875	1	2	4	8	16
232	729	7.6173	1	2	3	9	20
233	5912	12.8540	3	6	9	15	25
234	3984	6.3431	1	3	5	8	12
235	6085	12.3218	2	4	7	14	29
236	37318	9.3925	2	4	7	11	18
237	1667	6.1572	2	3	4	7	12
238	6070	14.3152	4	7	11	17	29
239	59087	10.2914	3	5	8	12	20
240	10501	8.6348	3	4	7	11	19
241	4268	5.7970	2	3	5	7	11
242	2366	11.4332	3	5	8	14	23
243	111814	6.8300	2	3	5	9	13
244	11115	7.6882	2	3	5	9	14
245	6188	5.3691	1	3	6	7	10
246	1822	5.8222	2	3	4	7	11
247	9527	5.0758	1	2	4	6	10
248	8229	6.4042	2	3	5	8	12
249	7738	6.6926	1	2	4	8	14
250	3391	6.6331	1	3	5	8	13
251	3539	3.5072	1	1	2	4	7
252	16372	8.3982	2	3	6	10	16
253	13237	4.9868	1	2	4	6	9
254	1	7.0000	7	7	7	7	7
255	9014	5.5843	1	2	4	6	11
256	27229	5.6021	2	3	5	8	13
257	26682	4.0382	2	3	4	5	6
258	3687	6.3835	1	2	4	7	13
259	4408	2.8396	1	2	3	4	5
260	3190	2.8009	1	1	2	3	5
261	1606	2.9141	1	1	2	3	5
262	25321	21.8860	5	9	15	26	44
263	4583	11.9614	3	5	9	15	25
264	4830	10.1006	2	3	6	12	22

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
266	4586	4.4119	1	2	3	6	9
267	423	4.5745	1	1	3	5	10
268	1475	4.4902	1	1	2	4	9
269	10250	12.2877	2	4	9	15	25
270	5151	4.4081	1	4	3	5	9
271	19088	12.3322	3	6	9	14	23
272	6857	9.6926	3	5	7	12	19
273	2522	7.2883	2	3	6	9	15
274	3402	10.2831	2	4	7	13	22
275	459	4.8410	1	2	3	6	10
276	872	5.6239	1	2	4	7	10
277	64697	8.7140	3	5	7	10	15
278	25539	6.4088	3	4	5	8	11
279	5	4.0000	2	2	3	4	9
280	13018	6.6362	2	3	5	8	13
281	8001	4.4946	1	2	3	5	8
282	5654	7.3286	2	3	5	8	13
283	2636	4.7970	1	2	3	6	9
284	4208	20.8945	6	9	15	25	41
285	1668	12.6271	5	6	13	24	24
286	5875	20.1083	5	8	13	23	41
287	459	11.3638	3	4	6	10	26
288	3751	5.9312	2	2	4	6	13
289	9171	3.7755	1	2	3	4	6
290	148	2.1419	1	1	2	2	4
291	4524	18.0144	4	7	13	22	36
292	532	8.2293	1	3	6	11	18
293	91024	7.4979	3	4	6	9	13
294	3187	5.8993	2	3	5	7	11
295	200135	8.5034	2	4	6	10	16
296	46464	5.2867	2	3	4	6	10
297	81	3.8519	1	1	3	5	9
298	810	7.3298	1	3	5	9	15
299	11184	5.6929	2	2	4	7	18
300	2107	16.5917	2	4	13	19	28
301	6152	13.9724	8	10	24	28	28
302	18398	13.6741	6	8	16	24	24
303	14098	6.8360	4	6	10	16	26
304	3818	9.2912	2	3	8	12	18
305	11906	4.9316	3	4	7	9	19
306	4578	9.5896	2	3	7	12	18
307	10098	4.3096	2	3	4	6	9
308	4690	5.7527	1	2	3	5	9
309	35059	2.8417	1	2	4	7	11
310	21067	5.8311	1	1	2	4	5
311	3487	2.8582	1	1	2	4	5
312	2221	6.0000	1	1	2	4	5
313	4	12.7809	1	3	6	8	12
314	25969	9.3516	1	3	8	16	28
315	46335	4.1862	2	4	7	12	19
316	1042		1	1	2	4	8
317							

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
318	6852	9.1016	2	3	6	11	19
319	1078	4.0130	1	1	3	5	8
320	152543	8.6086	3	4	7	10	15
321	30268	5.9105	2	3	5	7	10
322	45	5.8444	2	3	4	7	11
323	23245	4.1048	1	2	3	5	8
324	12140	2.6127	1	1	2	3	5
325	9765	5.9863	2	3	4	7	11
326	4051	3.8331	1	2	3	5	8
327	5	4.8000	1	1	2	3	5
328	1422	5.2180	1	2	3	5	8
329	340	2.7706	1	1	2	3	5
330	27220	7.5880	2	3	6	9	15
331	6331	4.3481	1	2	3	5	8
332	298	6.8176	1	2	3	5	8
333	15523	10.0540	6	7	9	11	15
334	8702	7.8486	5	6	7	9	11
335	101738	6.1534	3	3	4	5	6
336	88938	4.0533	2	3	4	5	6
337	8231	5.3288	1	1	2	3	5
338	3717	4.3990	2	2	3	4	5
339	1	2.0000	2	2	3	4	5
340	14306	4.4078	1	2	3	4	5
341	525	4.1887	1	1	2	3	4
342	1	2.0000	2	2	3	4	5
343	3920	8.0755	2	3	5	7	11
344	2552	5.0184	1	2	3	4	5
345	8370	8.8205	2	3	5	7	11
346	1148	4.0838	1	2	3	4	5
347	4335	5.6889	1	2	3	4	5
348	1985	3.0528	1	1	2	3	4
349	7867	5.8640	2	3	4	5	6
350	4	4.2500	2	3	4	5	6
351	893	4.7021	1	2	3	4	5
352	2223	12.6536	5	7	10	14	23
353	8412	8.7199	4	5	7	10	15
354	6073	5.4005	4	4	5	6	8
355	28989	4.6814	3	3	4	5	7
356	6603	12.6747	5	7	10	15	23
357	19782	6.9820	4	4	5	6	8
358	26208	4.9216	3	4	5	6	8
359	8913	5.4801	2	3	4	5	7
360	319	5.2915	1	2	3	4	5
361	5008	4.7455	1	2	3	4	5
362	2863	3.7132	1	1	2	3	4
363	3574	10.8626	3	4	5	6	8
364	5155	10.1387	2	4	5	6	8
365	843	4.3235	1	2	3	4	5
366	1443	7.8482	3	4	5	6	8
367	2610	4.7693	1	2	3	4	5
368	502	7.9363	3	4	5	6	8
369							
370							

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V8.0

DRC	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
371	668	4.4431	3	3	4	5	6
372	317	5.0158	1	2	3	5	12
373	2215	2.5454	1	2	2	3	3
374	70	3.1288	2	2	2	3	5
375	6	3.1687	2	2	3	4	4
376	118	3.4831	1	2	2	3	6
377	25	5.5600	1	1	3	7	13
378	141	4.3475	2	3	4	5	6
379	224	2.8688	1	1	2	3	5
380	63	1.9683	1	1	2	2	3
381	218	2.0734	1	1	1	2	4
382	63	1.4127	1	1	1	1	3
383	803	4.4110	1	2	3	6	9
384	100	3.0400	1	1	2	4	6
385	1	5.0000	5	5	5	5	5
389	23	8.9130	2	4	7	10	16
390	21	6.4288	1	2	5	14	14
391	2	2.0000	2	2	2	2	2
392	2298	15.2815	5	7	11	18	30
393	1	11.0000	11	11	11	11	11
394	2041	10.6502	1	2	6	13	24
395	70931	6.5355	2	3	5	8	13
396	17	4.5284	1	1	2	4	11
397	11448	7.6679	2	3	6	9	15
398	13525	8.6455	3	4	7	10	16
399	1961	5.5207	1	2	4	7	10
400	7782	14.0084	3	6	10	17	30
401	8274	15.1508	3	6	11	18	31
402	2847	5.4088	1	2	4	7	12
403	26834	11.9323	2	5	8	15	25
404	5789	5.7748	1	2	4	8	12
405	3	13.0000	3	3	16	20	20
406	3813	14.9218	4	7	11	19	31
407	1148	6.7277	2	4	6	12	16
408	8562	7.2723	1	2	4	8	16
409	6880	9.7489	2	4	5	13	22
410	133798	3.6082	1	2	3	5	6
411	199	4.2583	1	1	2	4	8
412	248	2.9919	1	1	2	3	7
413	10093	11.0368	2	4	8	14	23
414	2204	6.7713	1	2	4	8	14
415	25975	20.7733	5	9	15	25	41
416	123040	10.6111	2	5	8	13	20
417	29	6.1724	2	3	6	8	10
418	13009	8.4565	3	4	7	10	16
419	16520	7.6306	2	4	6	9	14
420	3992	5.5952	2	3	4	7	10
421	14588	5.6606	2	3	4	7	10
422	102	5.0196	2	2	4	6	10
423	6477	11.7448	3	5	8	14	24
424	2816	22.9343	2	7	15	27	47

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEL V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
425	17180	6.8194	2	3	5	8	14
426	6640	7.7938	2	3	5	9	16
427	1880	7.8814	2	3	5	10	18
428	1133	10.8182	2	4	7	13	14
429	29392	12.1322	3	4	7	13	23
430	55115	12.6963	3	5	9	16	26
431	293	9.2082	2	3	6	11	20
432	518	6.8958	1	2	4	7	16
433	5520	4.7053	1	1	3	6	11
434	18112	8.0417	2	3	5	9	17
435	12811	7.0370	2	3	5	8	15
436	2212	19.3079	6	13	21	28	29
437	9415	17.6408	6	10	17	25	29
438	1013	11.2458	1	3	7	13	27
439	4309	13.8538	2	4	9	17	30
440	842	3.5962	1	1	2	4	7
441	10611	10.3317	1	3	7	13	22
442	6086	3.9935	1	1	3	5	9
443	4079	7.1847	2	3	5	8	13
444	2555	4.7973	1	2	4	6	9
445	2	2.5000	2	2	3	3	3
446	3015	3.5609	1	1	2	4	7
447	1	61.0000	61	61	61	61	61
448	28913	6.0590	1	2	4	7	12
449	8184	3.5408	1	1	2	4	7
450	5	3.0000	1	1	3	4	5
451	15976	8.2755	1	2	4	7	13
452	6000	3.7853	1	2	3	5	7
453	4006	7.3452	1	2	4	8	15
454	1175	3.7021	1	1	2	4	7
455	206	11.6796	1	2	7	13	27
456	157	6.1847	1	1	2	10	16
457	1674	23.4606	5	10	18	30	47
458	545	15.6312	3	6	11	19	31
459	2486	9.2305	2	4	7	11	19
460	6298	5.1082	1	1	2	5	11
461	6175	18.3785	5	9	16	24	35
462	9381	6.8493	2	3	5	8	13
463	3170	4.2479	1	2	3	5	8
464	675	2.8163	1	1	2	3	6
465	3952	5.5347	1	1	2	3	5
466	3652	4.9721	1	1	2	3	5
467	62531	19.3115	4	8	15	24	38
468	6030	15.6750	8	13	20	27	38
471	206	36.4417	3	13	30	52	73
472	8279	17.1972	2	4	10	18	26
473	74205	14.2825	2	6	11	18	28
475	10988	17.7123	7	10	14	21	31
476	35762	10.5926	1	3	7	13	22
477	94058	11.0022	2	4	8	14	22
478	21100	5.9376	1	2	5	8	11

TABLE 7A - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEE V8.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
480	24	52.7083	14	22	41	66	124
481	50	40.1800	20	27	35	48	69
482	5739	17.8942	6	9	13	20	32
483	24829	50.7438	15	25	40	63	94
484	277	23.3835	2	7	18	32	48
485	1555	17.8826	7	9	13	20	32
486	2163	18.0767	2	8	13	22	36
487	2420	11.2736	2	5	9	14	22
488	338	22.8845	6	11	19	30	44
489	2519	14.5418	3	6	10	17	29
490	1215	9.4354	2	3	5	11	19

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEL V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
001	27476	17.1526	5	7	12	21	35
002	5622	16.3527	4	7	12	20	33
003	4	16.7500	3	3	6	17	41
004	4917	14.2758	3	6	10	17	29
005	44493	7.0902	3	4	5	8	13
006	1101	2.8928	1	1	2	3	6
007	5662	22.2209	2	6	12	24	50
008	2961	4.7866	1	1	3	6	11
009	1700	10.8359	2	4	7	13	22
010	19302	11.2841	2	4	8	14	24
011	3850	8.5021	1	2	5	8	13
012	21844	10.4811	2	4	7	12	20
013	5268	9.0452	3	4	7	10	15
014	323568	10.2829	2	4	7	12	20
015	131952	5.5086	2	3	4	7	10
016	11098	9.4418	3	4	7	11	18
017	3423	5.8682	2	3	5	7	11
018	13083	8.0558	2	4	6	10	15
019	7243	5.3204	1	2	4	7	10
020	7089	12.4592	2	5	9	16	25
021	879	10.2526	3	5	7	12	19
022	9798	5.8617	2	3	4	7	10
023	3333	6.6244	2	3	5	8	13
024	51672	7.8882	2	3	5	8	13
025	23291	4.5505	1	2	3	5	8
026	48	4.4583	1	2	3	5	8
027	2492	8.2472	1	1	3	5	8
028	7417	9.7035	1	3	6	10	19
029	3590	4.7312	1	2	3	5	8
030	1	2.0000	2	2	2	2	2
031	3789	6.5220	1	2	4	8	13
032	2974	3.6076	1	1	3	4	7
034	12695	8.7013	2	3	6	10	18
035	3877	5.4847	1	2	4	6	10
036	20896	2.5714	1	1	2	3	4
037	2849	4.4488	1	2	3	5	9
038	846	2.7293	1	1	2	3	5
039	12600	1.9096	1	1	1	2	3
040	3821	3.1670	1	1	2	3	5
042	21750	2.7114	1	1	2	3	5
043	213	4.4085	2	2	4	5	7
044	2104	8.9596	3	4	5	8	12
045	2652	4.5147	1	2	4	6	8
046	2903	6.0331	1	2	4	6	8
047	2079	4.4449	1	2	4	6	8
048	2	8.0000	6	6	10	10	10
049	3806	11.1117	2	4	7	14	24
050	5244	2.8398	1	1	2	3	5
051	669	2.8595	1	1	2	3	5
052	180	3.8056	1	1	2	3	5
053	7515	3.1271	1	1	2	3	5

TABLE 78 - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
055	4484	2.7328	1	1	1	2	5
056	1385	2.6780	1	1	1	3	5
057	714	5.5658	1	2	3	7	13
059	216	2.1820	1	1	1	2	4
081	385	4.8857	1	1	2	5	12
083	4854	6.1502	1	2	4	7	12
084	4767	9.1548	1	2	5	11	21
085	30414	4.1782	1	2	3	5	8
086	8465	4.1807	1	2	3	5	7
087	444	5.4032	2	3	4	7	10
088	17779	8.2091	2	3	5	7	11
089	6300	4.8419	2	3	4	6	8
070	34	4.7059	1	2	3	4	7
071	155	6.2518	2	3	5	7	14
072	871	4.7720	1	2	3	6	10
073	7121	6.1012	1	2	3	8	12
075	29928	14.0832	6	8	11	17	26
076	38918	14.8046	4	7	11	18	28
077	3827	6.8835	1	2	5	8	15
078	25837	10.3078	4	7	9	12	17
079	124196	12.2058	4	6	9	15	23
080	10055	8.3194	3	5	7	10	15
081	6	6.6667	4	6	6	8	8
082	70714	9.6573	2	4	7	12	20
083	7239	8.1789	2	4	6	10	15
084	1862	5.1860	1	2	4	6	9
085	16711	9.0590	2	4	7	11	18
086	2064	5.6487	1	3	4	7	11
087	66639	8.3889	2	4	7	10	16
088	133666	7.4853	3	4	6	9	14
089	383742	8.9505	3	5	6	11	16
090	54340	6.4263	3	4	6	8	11
091	41	5.4878	2	2	4	8	11
092	8903	8.9871	3	4	7	11	17
093	1569	6.7145	2	4	5	8	12
094	9045	9.3280	3	4	7	12	18
095	1302	5.7005	2	3	4	7	10
096	192863	7.2431	3	3	6	9	13
097	38840	5.3862	2	3	5	7	9
098	12	6.3333	2	2	7	8	9
099	32044	5.6089	2	2	4	7	11
100	11599	3.1936	1	2	3	4	6
101	19802	7.1785	2	2	5	9	14
102	4234	4.5043	1	2	3	6	9
103	188	33.4415	13	16	24	38	62
104	14942	22.2889	9	13	18	26	40
105	14137	16.2138	8	9	12	18	29
106	58228	15.6380	8	10	13	18	24
107	56915	13.8186	7	8	10	15	23
108	7728	16.5612	7	9	13	19	29
110	45714	14.5029	3	8	11	17	27

TABLE 78 - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEL V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
111	7045	8.8605	3	7	8	10	14
112	100174	6.4183	2	3	5	8	13
113	35541	19.2541	6	9	14	23	38
114	8399	12.6348	3	6	10	16	24
115	7155	14.3913	6	8	12	17	25
116	58209	7.5178	2	3	6	9	14
117	3153	5.5490	1	2	4	7	11
118	7593	4.3653	1	1	2	5	9
119	3661	6.2191	1	2	3	7	15
120	32232	12.8703	2	3	8	17	29
121	131401	10.0088	4	6	9	17	29
122	98699	7.2977	2	5	7	12	17
123	55093	5.4852	1	1	3	8	12
124	107763	5.9234	1	2	5	7	13
125	90651	3.1531	1	1	2	4	12
126	3803	21.8438	5	10	18	30	42
127	565431	7.8022	3	4	6	9	15
128	25006	8.5476	4	6	8	10	14
129	6882	4.6764	1	1	1	6	12
130	66121	8.2287	2	4	7	10	15
131	26809	6.0202	1	3	6	8	11
132	12702	5.5501	1	2	4	7	10
133	4452	4.4108	1	2	3	5	7
134	30150	5.1580	2	3	4	6	9
135	6438	7.0393	2	3	5	8	13
136	1485	4.2424	1	2	3	5	8
138	173859	6.0648	2	3	5	7	11
139	71430	3.8766	1	2	3	5	7
140	347524	4.6186	2	2	4	6	8
141	75906	5.7899	2	3	4	7	10
142	38880	3.4402	1	2	3	5	7
143	109168	7.4157	2	2	3	4	6
144	60017	4.6403	1	2	3	4	6
145	10174	14.3518	8	9	12	18	24
146	6878	9.7683	6	8	9	11	14
147	1870	16.6827	7	9	13	19	29
148	133609	9.7127	6	9	9	11	14
149	19680	14.0249	6	8	11	17	24
150	20276	8.0536	3	5	7	10	13
151	5358	10.7833	4	6	9	12	19
152	4445	7.4444	4	5	7	9	11
153	2284	18.7972	6	9	14	22	36
154	38377	9.1042	4	6	8	11	15
155	4808	14.3333	8	8	12	23	33
156	3	6.6466	2	3	5	8	13
157	13693	3.1646	1	2	2	4	6
158	11710	6.5490	2	3	5	8	12
159	15481	3.6025	1	2	3	5	7
160	13493	4.6104	1	2	3	5	7
161	27145	2.2723	1	1	2	3	4
162	28149						

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
163	11	4.9091	1	2	4	7	10
164	4479	11.6073	5	7	10	13	19
165	1931	7.5857	4	5	7	9	11
166	2589	7.5987	3	4	6	9	13
167	2240	4.4054	2	3	4	5	7
168	1871	6.6494	1	2	4	7	15
169	1676	2.7452	1	1	2	3	6
170	12108	16.3919	3	7	12	20	33
171	1531	7.4513	1	3	6	9	15
172	31047	10.4293	2	4	7	13	21
173	3704	5.4495	1	2	4	7	11
174	149751	7.1028	2	4	5	8	13
175	24151	4.5138	2	3	4	6	8
176	12552	7.7957	2	4	6	9	15
177	16135	6.3182	2	3	5	8	11
178	7137	4.5172	2	3	4	6	8
179	7910	9.5638	3	5	7	11	18
180	63704	7.7421	2	4	6	9	15
181	22813	4.6812	2	3	4	6	8
182	250136	6.3839	2	3	5	8	12
183	79305	4.3375	1	2	4	5	8
184	50	3.5600	1	2	3	4	5
185	3919	6.3024	1	3	4	6	13
186	1	6.0000	6	6	6	6	6
187	1174	3.5843	1	1	2	4	8
188	47043	7.4071	2	3	5	9	15
189	8859	3.9088	1	1	3	5	8
190	118	5.4068	2	3	4	7	10
191	10561	20.3618	7	10	15	25	40
192	1201	10.2540	4	6	9	12	18
193	12585	16.8567	7	10	14	20	30
194	1735	10.3793	4	7	10	13	18
195	18954	12.5419	6	8	10	14	21
196	2486	8.3986	4	6	8	10	13
197	62439	9.5875	4	5	8	11	17
198	39050	5.2745	2	3	5	6	9
199	2854	15.2779	5	7	12	19	30
200	1678	14.4094	2	5	10	18	30
201	4963	12.6428	3	5	9	16	26
202	14664	9.9542	2	4	8	12	20
203	28173	9.6980	2	4	7	10	15
204	35963	8.1078	3	4	6	10	19
205	20349	9.3989	2	4	7	12	19
206	2628	5.2565	1	2	4	7	11
207	36206	7.2343	2	3	6	9	14
208	14352	4.1495	1	2	3	5	8
209	235606	11.3661	6	8	10	13	17
210	105531	13.8142	6	8	11	15	23
211	31840	10.1865	5	7	9	12	16
212	15	6.1333	2	2	5	6	12
213	5517	13.2630	3	6	10	16	26

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 WEDPAR UPDATE 12/90 GROUPEL V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
214	35873	11.2895	4	6	9	13	21
215	35483	6.8873	3	4	8	8	12
216	5291	14.5894	2	5	11	19	31
217	14981	21.8884	4	8	15	28	47
218	18438	9.5070	3	5	7	11	17
219	17671	5.6412	2	3	5	7	10
220	7	4.7143	1	2	3	7	7
221	4339	11.2813	2	4	8	14	23
222	5485	5.4851	1	2	4	7	11
223	13099	4.4053	1	2	4	7	11
224	8451	3.0480	1	2	3	5	8
225	11033	5.1850	1	2	3	4	5
226	5238	9.6203	2	3	6	12	11
227	7008	3.9305	1	2	3	5	8
228	4737	3.9058	1	1	2	4	8
229	3072	2.7591	1	1	2	3	5
230	3483	6.8496	1	2	4	8	14
231	9330	6.7529	1	2	3	5	15
232	729	7.6173	1	2	3	5	20
233	5936	12.8708	3	6	9	15	25
234	3885	6.3438	1	3	5	8	12
235	6085	12.3218	2	4	7	14	29
236	37318	9.3825	2	4	7	11	18
237	1687	6.1572	2	3	7	17	12
238	6070	14.3152	4	5	8	17	29
239	59087	10.2814	3	5	7	12	20
240	10759	9.8781	3	4	7	12	19
241	4297	5.7933	2	3	5	7	11
242	2386	11.4332	3	5	8	14	23
243	111814	6.8300	2	3	5	9	13
244	11118	7.6876	2	3	6	9	14
245	6188	5.3898	1	3	4	7	10
246	1822	5.8222	2	3	4	7	11
247	9527	5.0758	1	2	4	6	10
248	6229	6.4042	2	3	5	8	12
249	7738	6.6826	1	2	4	8	14
250	3391	6.6331	1	3	5	8	13
251	3539	3.5072	1	1	2	4	7
252	16374	8.3976	2	3	6	10	16
253	13235	4.9870	1	2	3	6	9
254	1	7.0000	7	7	7	7	7
255	9014	5.5843	1	2	4	8	11
256	27229	5.6021	2	3	5	8	9
257	26682	4.0382	2	3	4	5	6
258	3687	6.3835	1	2	4	7	13
259	4408	2.8395	1	2	3	5	7
260	3190	2.8009	1	2	2	3	5
261	1606	2.9141	1	1	2	3	5
262	25325	21.8847	5	9	15	26	44
263	4579	11.9558	3	5	9	15	25
264	4830	10.1006	2	3	6	12	22

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEE V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
266	4586	4.4119	1	2	3	6	9
267	423	4.5745	1	1	3	5	10
268	1475	4.4902	1	1	2	4	9
269	10250	12.2877	2	4	8	15	25
270	5151	4.4081	1	2	3	5	9
271	19088	12.3322	3	6	9	14	23
272	6858	9.6919	3	5	7	12	19
273	2521	7.2892	2	3	6	9	15
274	3402	10.2831	2	4	7	13	22
275	459	4.6410	1	2	3	6	10
276	872	5.6239	1	2	4	7	10
277	64703	8.7139	3	5	7	10	15
278	25533	6.4085	3	4	5	8	11
279	5	4.0000	2	2	3	4	9
280	13017	6.6381	2	3	5	8	13
281	8000	4.4945	1	2	3	5	8
283	5655	7.3282	2	3	5	8	13
284	2635	4.7970	1	2	4	6	9
285	4208	20.8945	6	9	15	25	41
286	1668	12.6271	5	8	13	23	24
287	5875	20.1083	5	8	13	23	41
288	459	11.3638	3	4	6	10	26
289	3751	5.8312	2	2	4	6	13
290	9171	3.7755	1	2	3	4	6
291	148	2.1419	1	1	2	2	4
292	4528	18.0135	4	7	13	22	36
293	530	8.2000	1	3	6	11	17
294	91024	7.4979	3	4	6	9	13
295	3197	5.8993	2	3	5	7	11
296	200144	8.5033	2	4	6	10	16
297	46455	5.2868	2	3	4	6	10
298	81	3.8519	1	1	3	5	9
299	810	7.3298	1	3	5	9	15
300	11184	9.4980	3	4	7	11	18
301	2107	5.6929	2	2	4	7	10
302	6205	16.5531	8	10	13	18	28
303	16898	13.9724	6	8	11	16	24
304	14214	13.6676	4	6	10	16	26
305	3843	6.8579	2	3	6	9	12
306	11909	9.2912	2	4	7	12	18
307	4578	4.9316	3	3	4	6	9
308	10087	9.5697	2	3	7	12	19
309	4690	4.3096	1	2	3	5	9
310	35061	5.7527	1	2	4	7	11
311	21067	2.8417	1	1	2	4	5
312	3487	5.8311	1	2	2	7	12
313	2221	2.8582	1	1	2	3	6
314	4	6.0000	1	1	6	8	9
315	26005	12.7772	1	3	8	16	28
316	46335	9.3516	2	4	7	12	19
317	1042	4.1862	1	1	2	4	8

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
318	6852	9.1016	2	3	6	11	19
319	1076	4.0130	1	1	3	5	8
320	152550	8.6085	3	4	7	10	15
321	30259	5.9105	2	3	5	7	10
322	45	5.8444	2	3	4	7	11
323	23247	4.1049	1	2	3	5	8
324	12138	2.6125	1	1	2	3	5
325	9765	5.9863	2	3	4	7	11
326	4051	3.8331	1	2	3	5	8
327	5	4.6000	1	1	2	3	5
328	1422	5.2180	1	2	3	5	8
329	340	2.7708	1	1	2	3	5
330	27408	7.5763	2	3	6	9	15
331	6393	4.3477	1	2	3	5	8
332	296	6.8176	1	2	3	5	8
333	15523	10.0540	5	6	9	11	16
334	8702	7.8468	3	5	7	9	11
335	101740	6.1534	2	3	4	5	6
336	88935	4.0533	2	3	4	5	6
337	8231	5.3288	1	1	2	3	4
338	3717	4.3990	1	1	2	3	4
339	1	2.0000	2	2	2	2	2
340	14306	4.4079	1	1	2	3	4
341	525	4.1867	1	1	2	3	4
342	1	2.0000	2	2	2	2	2
343	3920	6.0755	2	3	5	7	11
344	2552	5.0184	2	3	5	7	11
345	8370	8.6205	2	3	6	9	15
346	1146	4.0838	1	1	2	3	4
347	4335	5.6699	1	1	2	3	4
348	1985	3.0529	1	1	2	3	4
349	7967	5.8640	2	3	5	7	11
350	4	4.2500	3	3	4	5	6
351	893	4.7021	1	2	3	5	8
352	2223	12.6536	5	7	10	14	23
353	8412	8.7199	4	5	7	10	15
354	6073	5.4005	4	5	7	10	15
355	28989	4.6814	4	5	7	10	15
356	6603	12.6747	5	7	10	14	23
357	19783	6.9919	4	5	7	10	15
358	26208	4.9216	3	4	5	7	11
359	8895	5.4821	2	3	4	5	6
360	337	5.2493	1	1	2	3	4
361	5009	4.7455	1	2	3	5	8
362	2863	3.7132	1	1	2	3	4
363	3574	10.8626	3	4	5	7	11
364	5155	10.1387	2	3	4	5	6
365	949	4.3235	1	2	3	5	8
366	1443	7.8482	3	4	5	7	11
367	2610	4.7693	1	2	3	5	8
368	502	7.9363	3	4	5	7	11

TABLE 78 - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
371	668	4.4431	3	3	4	5	6
372	317	5.0158	1	2	3	5	12
373	2215	2.5454	1	2	2	3	3
374	70	3.1286	2	2	2	3	5
375	8	3.1667	2	2	2	4	4
376	118	3.4831	1	2	2	3	6
377	25	5.5800	1	1	3	7	13
378	141	4.3475	2	3	4	5	8
379	224	2.9888	1	1	2	3	5
380	63	1.9883	1	1	1	2	3
381	218	2.0734	1	1	1	2	4
382	63	1.4127	1	1	1	1	3
383	803	4.4110	1	2	3	6	8
384	100	3.0400	1	1	2	4	6
385	1	5.0000	5	5	5	5	5
386	23	8.9130	2	4	7	10	16
389	21	6.4286	1	2	5	8	14
390	2	2.0000	2	2	2	2	2
392	2288	15.2815	5	7	11	18	30
393	1	11.0000	11	11	11	11	11
394	2041	10.6502	1	2	6	13	24
395	70931	6.5355	2	3	5	8	13
396	17	4.5284	1	1	2	4	11
397	11448	7.6878	2	3	6	9	15
398	13526	8.6453	2	4	7	10	16
399	1860	5.5204	3	4	4	7	10
400	7762	14.0084	3	6	10	17	30
401	6274	15.1508	3	6	11	19	31
402	2647	5.4088	1	2	4	7	12
403	26836	11.9318	2	5	8	15	25
404	5767	5.7751	1	2	4	8	12
405	3	13.0000	3	3	16	20	20
406	3813	14.9218	4	7	11	19	31
407	1146	6.7277	2	4	8	13	16
408	6562	7.2723	2	4	4	8	12
409	6880	8.7488	2	4	5	8	16
410	132842	3.5347	1	2	3	4	22
411	198	4.2563	1	1	2	4	8
412	248	2.9818	1	1	2	4	8
413	10083	11.0388	2	4	8	14	23
414	2204	6.7713	1	2	4	8	14
415	25975	20.7753	5	9	15	25	41
416	123040	10.6111	2	5	8	13	20
417	29	6.1724	2	3	6	8	10
418	13009	8.4565	3	4	7	10	16
419	15530	7.6294	2	4	6	9	14
420	3982	5.5952	2	3	4	7	10
421	14588	5.6606	2	3	4	7	10
422	102	5.0196	2	2	4	6	10
423	6477	11.7448	3	5	8	14	24
424	2816	22.9343	3	7	15	27	47

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPER V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
425	17180	6.8194	2	3	5	8	14
426	6640	7.7938	2	3	5	9	16
427	1880	7.8814	2	3	5	10	18
428	1133	10.8182	2	4	7	13	24
429	29392	12.1322	3	4	7	13	23
430	55115	12.6863	3	5	9	16	26
431	293	9.2082	2	3	6	11	20
432	518	6.8958	1	2	4	7	16
433	5520	4.7058	1	1	3	6	11
434	18112	8.0417	2	3	5	9	17
435	12811	7.0370	2	3	5	8	15
436	2212	19.3079	6	13	21	28	29
437	9415	17.8408	6	10	17	25	29
438	1013	11.2458	1	3	7	13	27
439	4309	13.8538	2	4	9	17	30
440	842	3.5982	1	1	2	4	7
441	10611	10.3317	1	3	7	13	22
442	6086	3.9985	1	1	3	5	9
443	4079	7.1647	2	3	5	8	13
444	2555	4.7973	1	2	4	6	9
445	2	2.5000	2	2	3	3	3
446	3015	3.5609	1	1	2	4	7
447	1	61.0000	61	61	61	61	61
448	28915	6.0591	1	2	4	7	12
449	8182	3.5398	1	1	2	4	7
450	5	3.0000	1	1	3	4	5
451	15976	6.2755	1	2	4	7	13
452	6000	3.7853	1	2	3	5	7
453	4008	7.3452	1	2	4	8	15
454	1175	3.7021	1	1	2	4	7
455	208	11.6786	1	2	7	13	27
456	157	8.1847	1	1	2	10	16
457	1674	23.4808	5	10	18	30	47
458	545	15.6312	3	6	11	19	31
459	2486	9.2305	2	4	7	11	19
460	6296	5.1082	1	1	2	5	11
461	6175	18.3785	5	9	16	24	35
462	9381	6.8493	2	3	5	8	13
463	3170	4.2479	1	2	3	5	8
464	675	2.8163	1	1	2	3	6
465	3952	5.5347	1	1	2	5	11
466	3651	4.9728	1	1	2	4	9
467	82561	19.3106	4	8	15	24	38
468	8030	15.6750	8	9	13	18	26
471	206	36.4417	3	13	30	52	73
472	8279	17.1972	2	4	10	27	41
473	74190	14.2823	2	6	11	18	28
475	10987	17.7121	7	10	14	21	31
476	35764	10.5923	1	3	7	13	22
477	94059	11.0005	2	4	8	14	22
478	21098	5.9378	1	2	5	8	11

TABLE 7B - MEDICARE PROSPECTIVE PAYMENT SYSTEM
SELECTED PERCENTILE LENGTHS OF STAY
FY90 MEDPAR UPDATE 12/90 GROUPEE V9.0

DRG	NUMBER DISCHARGES	ARITHMETIC MEAN LOS	10TH PERCENTILE	25TH PERCENTILE	50TH PERCENTILE	75TH PERCENTILE	90TH PERCENTILE
480	24	52.7083	14	22	41	66	124
481	50	40.1600	20	27	35	48	69
482	5707	17.8207	8	9	13	20	32
483	24965	50.7166	15	25	40	63	94
484	277	23.3935	2	7	13	32	48
485	2186	17.2817	7	9	13	20	31
486	1532	18.8489	1	7	14	24	41
487	2420	11.2736	2	5	9	14	22
488	377	23.0424	6	11	19	29	44
489	2844	14.3119	3	6	10	17	29
490	1222	9.4354	2	3	5	11	19
491	5720	7.1451	3	4	6	8	12
492	957	13.8119	2	4	6	23	35

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TABLE 8A.—STATEWIDE AVERAGE OPERATING COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS

[(Case weighted) 4/91]

State	Urban	Rural
Alabama	0.5023	0.5410
Alaska	0.6489	0.8295
Arizona	0.5911	0.6239
Arkansas	0.6137	0.5777
California	0.5429	0.5723
Colorado	0.6046	0.6604
Connecticut	0.6949	0.7364
Delaware	0.6161	0.6343
District of Columbia	0.5900	
Florida	0.5129	0.5228
Georgia	0.6038	0.5905
Hawaii	0.6033	0.7488
Idaho	0.6980	0.7138
Illinois	0.5817	0.6514
Indiana	0.6768	0.7163
Iowa	0.6415	0.7316
Kansas	0.6530	0.7128
Kentucky	0.5991	0.5857
Louisiana	0.5945	0.5828
Maine	0.7143	0.8621
Maryland	0.7666	0.7935
Massachusetts	0.7472	0.8571
Michigan	0.5749	0.6718
Minnesota	0.6655	0.7195
Mississippi	0.6214	0.5958
Missouri	0.5670	0.5838
Montana	0.6477	0.6914
Nebraska	0.6108	0.7103
Nevada	0.5032	0.7389
New Hampshire	0.6918	0.7066
New Jersey	0.7903	
New Mexico	0.5964	0.5953
New York	0.6665	0.7281
North Carolina	0.6876	0.6021
North Dakota	0.7190	0.6821
Ohio	0.6519	0.6856
Oklahoma	0.5741	0.6236
Oregon	0.6424	0.6949
Pennsylvania	0.5352	0.6032
Puerto Rico	0.5257	0.6661
Rhode Island	0.7650	
South Carolina	0.5696	0.5491
South Dakota	0.6543	0.6839
Tennessee	0.5693	0.5793
Texas	0.5768	0.6663
Utah	0.6534	0.6429
Vermont	0.6877	0.6972
Virginia	0.5950	0.6113
Washington	0.7156	0.7347
West Virginia	0.6145	0.5770
Wisconsin	0.7545	0.7539
Wyoming	0.7221	0.7483

TABLE 8.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS

[(Case Weight) 4/91]

State	Ratio
Alabama	0.0669
Alaska	0.1113
Arizona	0.0789
Arkansas	0.0609
California	0.0587
Colorado	0.0706
Connecticut	0.0475
Delaware	0.0703
District of Columbia	0.0397
Florida	0.0689
Georgia	0.0623
Hawaii	0.0781

TABLE 8.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS—Continued

[(Case Weight) 4/91]

State	Ratio
Idaho	0.0846
Illinois	0.0588
Indiana	0.0773
Iowa	0.0709
Kansas	0.0744
Kentucky	0.0786
Louisiana	0.0810
Maine	0.0537
Maryland	0.0571
Massachusetts	0.0617
Michigan	0.0620
Minnesota	0.0798
Mississippi	0.0697
Missouri	0.0678
Montana	0.0850
Nebraska	0.0730
Nevada	0.0514
New Hampshire	0.0889
New Jersey	0.0786
New Mexico	0.0649
New York	0.0591
North Carolina	0.0632
North Dakota	0.0854
Ohio	0.0689
Oklahoma	0.0682
Oregon	0.0676
Pennsylvania	0.0600
Puerto Rico	0.0844
Rhode Island	0.0434
South Carolina	0.0733
South Dakota	0.0946
Tennessee	0.0704
Texas	0.0748
Utah	0.0757
Vermont	0.0559
Virginia	0.0641
Washington	0.0862
West Virginia	0.0683
Wisconsin	0.0739
Wyoming	0.0789

Appendix A—Regulatory Impact Analysis

I. Introduction

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed rule that meets one of the Executive Order 12291 criteria for a "major rule;" that is, a rule that would be likely to result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- A significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601

through 612), unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. With the exception of hospitals located in certain rural counties adjacent to urban areas and hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds located outside of a Metropolitan Statistical Area or New England County Metropolitan Area.

Section 1886(d)(8)(B) of the Act specifies that hospitals located in certain rural counties adjacent to one or more urban areas are deemed to be located in the adjacent urban area. We have identified 52 rural hospitals, some of which may be considered small, that we have reclassified as urban hospitals. Also, section 601(g) of the Social Security Amendments of 1983 (Pub. L. 98-21) designated hospitals in certain New England counties as belonging to the adjacent New England Metropolitan County. Thus, for purposes of the prospective payment system, we classified these hospitals as urban hospitals.

It is clear that the changes being implemented in this document would affect both a substantial number of small rural hospitals as well as other classes of hospitals, and the effects on some may be significant. Therefore, the discussion below, in combination with the rest of this proposed rule, constitutes a combined regulatory impact analysis and regulatory flexibility analysis in accordance with Executive Order 12291 and the RFA.

II. Objectives

We expect these proposed changes to further Congress' original objectives in establishing the prospective payment system. The prospective payment rates create incentives similar to the incentives a hospital faces in pricing and marketing its services in a conventional market. Because similar hospitals are paid the same rate for similar services, hospitals know in advance the amount they will be paid per discharge. Giving hospitals an opportunity to receive this payment,

regardless of their specific cost experience, creates a strong incentive to operate more efficiently and to minimize unnecessary costs. Unlike a cost limitation approach, which achieves savings largely by disallowing Medicare payment for costs that are not reasonable or that are in excess of a specific limit, the prospective payment system achieves savings by intensifying hospitals' incentives to operate efficiently. Thus, our objectives include the following:

- Restructuring hospitals' economic incentives.
- Basing payment on a system that more accurately identifies the product being purchased than cost reimbursement.
- Reinforcing the role of the Federal government as a prudent buyer of services.
- Restraining the rate of hospital cost increases, thus moderating the outflow of expenditures from the Medicare trust fund while maintaining high quality care.

In addition, we share national goals of deficit reduction and restraints on government spending in general. We believe the proposed changes would further all of the above goals while maintaining the financial viability of the hospitals industry and ensuring access to high quality care for beneficiaries.

We also expect these proposed changes to further these objectives while avoiding or minimizing unintended adverse consequences and ensuring that the outcomes of this payment system are, in general, reasonable and equitable. Thus, our intent is to refine further the prospective payment system without undercutting our objectives.

III. Limitations of Our Analysis

As has been the case in previously published regulatory impact analyses, the following quantitative analysis is limited to presenting the projected effects of the proposed policy and rate changes on current and projected payment rates. In the analysis that follows, we examine the effects of both statutory and proposed policy changes on hospital payments by projecting estimated payments under each set of policy changes onto the current payment amounts. That is, we project the effects of each policy change on payments while holding all other payment variables constant. Thus, we are not attempting to predict behavioral responses to our policy changes, and we are not generally accounting for changes in such exogenous variables as admissions, lengths of stay, or case mix.

In view of the difficulty we have in quantifying impacts and attributing causality, we believe that the approach we are taking in the specific impact discussions below is the most reasonable one. Wherever, possible, we have included quantitative representations of the changes being proposed in this document. As with previously published impact analyses, we are soliciting comments and information about the anticipated effects of these changes on the prospective payment system.

IV. Hospitals Included In and Excluded From the Prospective Payment System

In general, hospitals began operating under the prospective payment system with the start of their cost reporting period beginning on or after October 1, 1983. Since September 1985, Massachusetts, New York, and New Jersey have terminated the waivers under which they were excluded from the Medicare prospective payment system, and hospitals in those States have entered the prospective payment system. Also, the demonstration project being conducted in the Rochester region of New York State has ended and the 10 hospitals in that region are now under the prospective payment system.

With the enactment of section 9304 of Public Law 99-509, which added section 1886(d)(9) to the Act, the 58 acute care hospitals located in Puerto Rico began receiving payments under the prospective payment system effective with discharges occurring on or after October 1, 1987. Also, effective with cost reporting periods that began on or after October 1, 1987, alcohol/drug hospitals and units that had been excluded from the prospective payment system under 42 CFR 412.22(c) of the regulations began receiving Medicare prospective payments. Only 59 short-term, acute care hospitals remain excluded from the prospective payment system under section 1814(b)(3) of the Act (in Maryland) or a demonstration project (in the Finger Lakes region of New York State). Thus, as of April 3, 1991, about 5,560 hospitals (84 percent of all Medicare-participating hospitals) were operating under the prospective payment system.

Among the 5,560 prospective payment hospitals, there are over 1,160 hospitals that are paid on various special bases under the prospective payment system, as required by statute. They include sole community hospitals; Medicare-dependent, small rural hospitals; and rural referral centers. In addition, there are some 1,580 hospitals that are receiving additional payments on the basis of being classified as

disproportionate share hospitals. About 30 of these hospitals also receive special payments as rural referral centers. About 1,190 hospitals are receiving additional payments for the indirect cost of medical education. There are about 610 hospitals that qualify for additional payments under both the indirect medical education and disproportionate share payment provisions.

As of April 3, 1991, almost 990 Medicare hospitals were excluded from the prospective payment system and continue to be paid on the basis of their reasonable cost, subject to limits on the rate of their cost increases. These hospitals include psychiatric, rehabilitation, long-term care, and children's hospitals. Another 1,820 psychiatric and rehabilitation units in hospitals subject to the prospective payment system are excluded from the prospective payment system as of the same date. These units, too, are paid on the basis of reasonable cost subject to limits on the rate of their cost increases. Although hospitals extensively involved either in the treatment of cancer or cancer research were at one time prospective payment hospitals that were paid on a reasonable cost basis, section 6003(a) of Public Law 101-239 specifically excluded these hospitals from the prospective payment system effective with cost reporting periods beginning on or after October 1, 1989. There are currently nine hospitals that HCFA has designated as cancer research or treatment hospitals.

V. Impact on Excluded Hospitals and Units

As noted in the previous section of this impact analysis, almost 990 Medicare hospitals, and 1,820 units in hospitals included in the prospective payment system, currently are paid on a reasonable cost basis subject to the rate-of-increase ceiling requirement of § 413.40. Section 4005 of Public Law 101-508 amended section 1886(b)(1) of the Act to provide that an excluded hospital or unit with cost reporting periods beginning on or after October 1, 1991 will be paid 50 percent of the costs in excess of the target amount. This additional payment, however, is not to exceed 10 percent of the target amount after any exceptions or adjustments are made to the target amount for the cost reporting period.

The most current data for excluded hospitals is for cost reporting periods beginning in FY 1989. These costs reports contain additional days of care resulting from the enactment of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) that would no

longer be appropriate due to the subsequent repeal of that law. There may be a distortion in the relationship between operating costs per case and a hospital's target amount, which may not be adjusted to reflect the catastrophic coverage provisions. Thus, any attempt to project the impact of the increased payment amount provided for under section 4005 of Public Law 101-508, based on the most current data, could produce erroneous and misleading results.

Section 4005 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) also amended the language in section 1886(b)(4)(A) of the Act permitting assignment of a new base year. Section 1886(b)(4)(A) of the Act permits the Secretary to grant an exemption from, or an adjustment or exception to, the target rate of increase limit in those cases in which events beyond the hospital's control or extraordinary circumstances create a distortion in the increase in costs. In addition, as amended by section 6015 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239), section 1886(b)(4)(A) of the Act provides that a hospital or excluded unit may be assigned a new base year in lieu of adjustments to the existing target rate. Redesignated § 413.40(i) provides that if the hospital experiences a substantial and permanent change in patient care services that is so broad in nature that the resulting cost distortion cannot be adequately addressed through the more targeted adjustments available under redesignated § 413.40(g), we will consider granting the hospital a new base year. Section 4005(c)(2) of Public Law 101-508 further amended section 1886(b)(4) of the Act to include factors that the Secretary must take into consideration in determining whether to assign a new base period. These factors include:

- Changes in applicable technologies and medical practices.
- Differences in the severity of illness among patients.
- Whether increases in wages and wage-related costs for hospitals in the area exceed the national average increases.
- Such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.

It is impossible for us to estimate the impact of this change because the circumstances involved in each request for an adjustment or a new base year

are unique to the hospital in question and cannot be predicted until the hospital files its request. However, as explained in the April 20, 1990 final rule with comment period (55 FR 15167), which implemented amendments to section 1886(b)(4) of the Act made by section 6015 of Public Law 101-239, we do not believe that many hospitals will qualify for the new base year provision even with the additional factors required by section 4004 of Public Law 101-508. Therefore, the impact of this provision on program payments should be small.

We do expect there to be an increase in program payments as the result of our proposal to adjust the target amount for significant wage increases. However, since the adjustment would be limited to hospitals in geographic areas where the rate of increase in wages is 8.0 percent higher than the national average rate of increase, we believe the impact of our proposal would be minimal because of the small number of hospitals that would qualify.

In general, the proposals in this document liberalize the payment provisions contained in our regulations to reflect both changes in the Act as well as recognition on our part that significant wage increases may warrant an adjustment in the target amount. While most hospitals would not benefit from the proposed changes, those hospitals that experience significant increases in their operating costs as a result of factors beyond their control would be helped through these proposed regulations.

VI. Quantitative Impact Analysis of the Proposed Policy Changes on Prospective Payment Hospitals

A. Basis and Methodology of Estimates

The data used in developing the following quantitative analysis of changes in payments, presented in table I below, are taken from FY 1990 billing data and hospital-specific data for FY 1988 and 1989. As in previous analyses, we compared the estimated effects of changes being proposed in this document to our estimate of the payment amounts under policies in effect for the previous payment period. Normally, we would compare the proposed payments to payments that went into effect at the beginning of the current fiscal year. However section 4007 of Public Law 101-508 froze all Medicare Part A payments from October 21, 1990 through December 1, 1990 and made changes in the payment policies

effective January 1, 1991. Thus, for the sake of this analysis, we are comparing the proposed changes in prospective hospital payments to the rates that went into effect on January 1, 1991, and which were announced in a final rule with comment published January 7, 1991 (56 FR 568).

For purposes of simulating the impact of the proposed payments, we have treated all hospitals in our data base as if they have cost reporting periods that begin on October 1, the beginning of the Federal fiscal year. Only by establishing the same cost reporting period for all hospitals can we show the effect of policy changes on payments for comparable 12-month periods.

Our analysis has several limitations. First, it does not take into account behavioral changes that hospitals may adopt in response to the policy changes being implemented in this proposed rule. Second, as a result of gaps in our data, we are unable to quantify some of the effects of the changes contained in this rule. Third, we could not categorize all the hospitals in our data base because in some cases the hospital-specific data necessary for constructing our impact model were missing. For some hospitals, data on hospital bed size and type of ownership were missing. The missing data, however, did not prevent us from using the discharges from these facilities to estimate the actual payments for FY 1991 and the projected payments under the policies proposed for FY 1992 that serve as the bases of our simulation.

The following analysis examines in (column 1 of table I) the effects of the annual reclassification of diagnoses and procedures and the recalibration of the DRG weights required by section 1886(d)(4)(C) of the Act. In column 2 of table I, we show the effects of the changes in reclassifying hospitals in accordance with decisions of the Medicare Geographic Classification Review Board (MGCRB). For both columns 1 and 2, we held constant all the payment variables except those associated with the provision under examination. In the last column (column 3), we present the combined effect of all changes being presented in this proposed rule. That is, column 3 displays the combined effects of the previous two columns as well as changes in the outlier payments and in the update and budget neutrality factors. As such, this last column is the only one that reflects the effects of all the quantifiable proposed policy changes on simulated FY 1991 payments.

TABLE I.—IMPACT OF THE PROPOSED CHANGES IN THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM FOR FY 1992

	Number of hospitals ¹	Reclassification and recalibration ²	Geographic reclassification ³	All changes ⁴
		(1)	(2)	(3)
All hospitals.....	5,461	0.0	0.0	2.1
Urban by region:				
New England.....	176	0.1	-0.3	1.4
Middle Atlantic.....	477	0.0	-0.3	1.2
South Atlantic.....	449	0.0	-0.3	1.7
East North Central.....	522	0.0	-0.5	1.6
East South Central.....	176	0.0	-0.7	1.6
West North Central.....	191	0.0	-0.7	1.6
West South Central.....	363	-0.1	-0.5	1.8
Mountain.....	118	-0.1	-0.6	1.7
Pacific.....	511	-0.1	-0.3	1.7
Puerto Rico.....	49	0.0	-0.2	1.6
Rural by region:				
New England.....	57	0.0	1.7	4.3
Middle Atlantic.....	81	0.1	1.8	4.2
South Atlantic.....	318	0.0	1.8	4.4
East North Central.....	310	0.1	2.7	5.4
East South Central.....	294	0.0	2.6	5.3
West North Central.....	562	0.0	3.1	6.0
West South Central.....	406	0.0	4.6	7.3
Mountain.....	244	0.0	2.8	5.8
Pacific.....	151	0.0	2.3	5.3
Puerto Rico.....	6	0.2	1.1	4.4
Large urban areas (populations over 1 million).....	1,471	0.0	-0.4	1.6
Other urban areas (populations of 1 million or fewer).....	1,561	0.0	-0.5	1.5
Geographic reclassification:				
Standardized amount.....	20	0.1	5.4	7.4
Wage index.....	517	0.0	6.3	8.2
Standardized amount & wage index.....	65	0.0	8.7	10.3
No reclassification.....	4,807	0.0	-0.7	1.4
Urban hospitals.....	3,032	0.0	-0.4	1.5
0-99 beds.....	747	0.0	0.0	2.0
100-199 beds.....	882	0.0	-0.3	1.6
200-299 beds.....	638	0.0	-0.4	1.6
300-499 beds.....	550	0.0	-0.5	1.5
Over 500 beds.....	212	0.0	-0.6	1.5
Rural hospitals.....	2,429	0.0	2.7	5.4
0-49 beds.....	1,215	0.1	1.3	4.5
50-99 beds.....	736	0.1	2.5	5.7
100-149 beds.....	253	0.0	3.0	5.8
150-200 beds.....	111	-0.1	3.7	5.9
Over 200 beds.....	114	0.0	3.0	5.0
Teaching status:				
Non-teaching.....	4,271	0.0	0.4	2.6
Resident/bed ratio less than 0.25.....	958	0.0	-0.3	1.6
Resident/bed ratio 0.25 or greater.....	232	0.0	-0.5	1.4
Disproportionate share hospitals (DSH):				
Non-DSH.....	4,013	0.0	0.3	2.5
Urban DSH.....				
Fewer than 100 beds.....	68	0.0	0.2	2.5
100 beds or more.....	1,098	0.0	-0.5	1.4
Rural DSH.....				
Fewer than 100 beds—not rural referral centers or sole community hospitals.....	141	0.1	1.5	4.7
100 beds or more—not rural referral centers or sole community hospitals.....	45	-0.1	1.5	4.4
Sole community hospitals.....	64	0.0	1.8	5.0
Rural referral centers and sole community or rural referral centers.....	32	0.0	2.5	4.1
Urban teaching and DSH:				
Both teaching and DSH.....	591	0.0	-0.6	1.3
Teaching and no DSH.....	517	0.0	-0.3	1.7
No teaching and DSH.....	575	-0.1	-0.3	1.6
No teaching and no DSH.....	1,349	0.0	-0.4	1.7
Other special status (rural):				
Non SCH/RRC rural hospital.....	1,140	0.1	2.3	5.4
Sole community hospital or medicare dependent.....	1,132	0.0	2.3	5.3
Sole community hospital.....	509	0.0	2.0	5.3
Rural referral center (RRC).....	203	0.0	3.9	5.6
Medicare-dependent.....	553	0.1	1.7	5.0
Sole community and rural referral center.....	31	-0.1	3.2	5.4
Medicare utilization as a percent of inpatient days:				
0-25.....	354	-0.1	-0.7	1.1
25-50.....	2,886	0.0	-0.1	2.0
50-65.....	1,655	0.0	0.3	2.4
Over 65.....	374	0.0	0.1	2.3
Type of ownership:				
Voluntary.....	2,986	0.0	-0.1	1.9
Proprietary.....	835	-0.1	0.1	2.3

TABLE I.—IMPACT OF THE PROPOSED CHANGES IN THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM FOR FY 1992—
Continued

	Number of hospitals ¹	Reclassification and recalibration ²	Geographic reclassification ³	All changes ⁴
Government.....	1,507	(1) 0.0	(2) 0.3	(3) 2.4

¹ Because data necessary to classify some hospitals by category were missing, these hospitals were omitted from the analysis. Therefore, the total number of hospitals in each category may not equal the national total.

² Recalibration of the DRG weights and classification changes are based on FY 1990 MEDPAR data and are performed annually in accordance with section 1886(d)(4)(C) of the Act.

³ Under section 1886(d)(10) of the Act, a hospital may apply to the Medicare Geographic Classification Review Board for the purpose of obtaining a higher wage index, standardized payment amount, or both. Under section 1886(d)(8)(D) of the Act, changes in the geographic designation of hospitals must be budget neutral and payments to rural hospitals after reclassification cannot be lower than they would be absent reclassification.

⁴ This column shows the combined effects of all the previous columns as well as the effects of updating the FY 1991 standardized payment amounts by the market basket increase as mandated by section 1886(b)(3)(B)(i)(VII) of the Act as added by sections 4002 (a) and (c) of Pub. L. 101-508. For the comparative effects of updating the FY 1991 standardized amounts by the update factors we are recommending to the Congress as required by section 1886(e)(4) of the Act, see appendix D to this document. Also, FY 1991 baseline payments were adjusted to reflect an estimate of actual outlier payments at 5.3 percent in contrast to the 5.1 percent set for the outlier pool for FY 1991. These estimates of outlier payments also contain an adjustment to remove the effects of the elimination of the day limitation on inpatient hospital services under Pub. L. 101-360. Because our total FY 1992 estimated payments do not perpetuate the 0.2 percentage point increase in outlier payments relative to the outlier pool, this column reflects the 0.2 percent decrease in total prospective payments necessary to ensure equality between projected outlier payments and the outlier offsets. In addition, this column captures interactive effects that we are not able to quantify.

B. The Impact of the Proposed Changes to the DRG Weights (Column 1)

In column 1, we present the combined effects of revising the assignment of diagnosis and procedure codes to different DRGs, the addition or elimination of diagnosis or procedure codes or DRGs, and the subsequent recalibration of the DRG weights incorporating these redefined DRGs. Section 1886(d)(4)(C)(1) of the Act requires us each year to perform these reclassifications and recalibrations of the DRG weights in order to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources.

The redistributive impact of the reclassification and recalibration changes across hospital groupings appears to be negligible. At most the impact is either a reduction or an increase of 0.1 percent for a few hospital groupings while most hospitals appear to experience no effect. The impact of reclassification and recalibration on aggregate payments is required by section 1886(d)(4)(C)(iii) of the Act to be budget neutral.

C. The Impact of Reclassified Hospitals (Column 2)

As discussed in section I.A.1 of the preamble to this proposed rule, section 6003(h)(1) of Public Law 101-239 added section 1886(d)(10) to the Act (which was later amended by section 4002(h) of Public Law 101-508) to provide for the establishment of the Medicare Geographic Classification Review Board (MGCRCB). The MGCRCB considers applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system. The first hospital reclassifications based

on decisions of the MGCRCB will take effect October 1, 1991. Under section 1886(d)(10) of the Act, the MGCRCB may reclassify a hospital to an adjacent rural or urban area with which it has a close proximity for the purposes of using the other area's standardized amount, wage index value, or both. (A rural referral center or a sole community hospital may be redesignated to an area that is not an adjacent county.)

Both the proposed FY 1992 standardized payment amounts and wage index values incorporate all reclassification decisions made by the MGCRCB as of March 30, 1991. As of that date, 639 reclassifications were approved by the MGCRCB.

In keeping with the authority granted the MGCRCB to reclassify hospitals on the basis of either their wage index, their standardized amount, or both, we have identified the three sets of hospitals and have presented the effects of their being reclassified on the other hospitals in the payment system in column 2 of table I. The two ways in which the reclassification of hospitals affects payment to nonreclassified hospitals is through changes in the wage index and through the geographic reclassification budget neutrality adjustment required by section 1886(d)(8)(D) of the Act.

The effects of the MGCRCB reclassification decisions are significant. As reflected in table I, the effect on hospitals reclassified only for the purpose of their wage index is to increase their payments by an average of 6.3 percent. Hospitals reclassified for the purpose of both their wage index and standardized amount can expect a gain of an average 8.7 percent in their payments, and hospitals reclassified only for the purpose of their standardized amounts can expect an

average increase of 5.4 percent. The counterbalancing reduction to hospitals that are not reclassified is projected to be 0.7 percent of current payments.

As one would expect, rural hospitals, as a group, benefit the most from reclassifications while urban hospitals absorb the reduction. As a group, the average payment to a rural hospital will increase 2.7 percent per case. Among rural hospitals, those in the 150 to 200 bed size range are projected to benefit the most, with an increase of 3.7 percent in the average payment case, indicating that a large proportion of the reclassified hospitals are in this bed size range. Among the types of rural hospitals benefiting from reclassification, rural referral centers are projected to receive an increase of 3.9 percent, also indicating that many of the reclassified hospitals qualify as rural referral centers. The geographical analysis of the effects of reclassified hospitals shows rural West South Central census division receiving the largest increase of 4.6 percent.

Overall, urban hospitals can expect a reduction of 0.4 percent in their payments per case. It should be noted that this value and those that follow in the discussion of specific groupings of urban hospitals are net values. That is, while the effect of reclassifying hospitals will be generally to reduce payments to urban hospitals, some urban hospitals were reclassified either into areas with a higher wage index value or a higher standardized amount or both. A case in point are the urban disproportionate share hospitals with fewer than 100 beds. We are projecting these hospitals to receive an increase in payments of 0.2 percent because some of the reclassified hospitals fall into this group. But as the value for all urban

hospitals indicates, many more hospitals can expect negative effects from the reclassification than expect gains.

Among the urban hospitals, those that will see the largest reduction in their average payments per case have over 500 beds (-0.6 percent), or have large graduate medical education programs (-0.5 percent), or are urban, disproportionate share hospitals with 100 or more beds (-0.5 percent). In addition, those hospitals that qualify for additional payments for both their teaching activities and for being a disproportionate share hospitals may see a reduction in average payments of a 0.6 percent because of hospital reclassification. The geographic analysis shows that the largest reduction in average payments occurring in the urban areas of the East South Central and West North Central census division. The reduction is projected to be 0.7 percent for each of these areas.

From the foregoing analysis, it is evident that the provisions allowing the geographic reclassification of hospitals is resulting in the redistribution of payments from hospitals in higher paying urban areas to hospitals in the generally lower paying rural areas. We note that this analysis is based on only the decisions made by the MCCRB as of March 30, 1991. Additional decisions will be reflected in the final rule, and we expect the distributional impact to increase when the additional decisions are taken into account.

D. Combined Effects of All Changes (Column 3)

In column 3 of Table I, we present the expected effects of all proposed changes for FY 1992 compared to expected payments under policies in effect for FY 1991. In addition to the changes being proposed for DRG weights (presented in column 1) and the effects of reclassified hospitals (presented in column 2), we incorporated the update factors being proposed for large and other urban areas and rural areas, changes in the outlier thresholds, revisions to the wage index, and cost of living adjustments. Although we have not explicitly analyzed these changes in this impact analysis, they are discussed in the addendum to the proposed rule and in the preamble. As explained in our introductory remarks to the quantitative analysis section, some changes cannot be captured because we lack current data and the data we do possess may be incomplete. There may also be interactive effects between the various factors comprising the payment system which we are not able to isolate. For these reasons the values in column 3 may not equal the sum of the previous

columns plus the other variables we are able to identify.

In addition to the update factors to the standardized amounts being proposed (that is, 2.2 percent for urban hospitals and 3.2 percent for rural hospitals), we are proposing changes in the outlier thresholds to incorporate the proposed prospective payment system for hospital inpatient capital-related costs. In section IV.C. of the preamble to this proposed rule, we provide a detailed explanation of the effects of incorporating outlier payments for capital with outlier payments for the operating portion of the prospective payment system. That analysis shows that there would be very little change in the proportion of outlier cases meeting the day and cost outlier thresholds given our proposed changes to the outlier thresholds. Under the proposed thresholds that would include outlier payments for capital, 57.2 percent of the cases used to model these thresholds would be paid as day outliers (that is, paid a per diem amount based either on the number of days exceeding the DCG geometric mean length of stay plus the lesser of 32 days or 3.0 standard deviations), and 42.8 of the cases would be paid as high cost outliers (that is, paid once costs exceed the lesser of 2 times the DRG payment rate or \$43,000). If capital payments for outliers were not included, 56.9 of the outlier cases would be paid as day outliers (that is, they would exceed the DRG geometric mean length of stay plus lesser of 32 days or 3.0 standard deviations), and 43.1 of the cases would be paid as high cost outliers (that is, they would exceed the lesser of 2 times the DRG payment rate or \$39,000).

In addition to adjusting the outlier threshold to account for the inclusion of capital in the prospective payment system, we have made other adjustments to achieve an outlier pool target of 5.1 percent of total prospective payments. Because we estimate outlier payments in FY 1991 will equal 5.3 percent of total prospective payments based on FY 1990 billing data, we have adjusted the amounts in the FY 1991 baseline amounts to account for the underestimation of outlier payments. By making this adjustment to the base year amounts in our model, we would maintain equality between the proposed outlier offsets and the target of a 5.1 percent outlier pool.

In order to recognize the impact of the Medicare Catastrophic Coverage Act of 1988 on outlier payments, we adjusted the outlier model to account for the effects of these provisions. The provisions of that statute were effective for discharges occurring on or after

January 1, 1989. They were subsequently repealed by the Medicare Catastrophic Coverage Repeal Act of 1989 for discharges occurring on or after January 1, 1990. As a consequence of these two provisions, Medicare patients discharged from a hospital during the first quarter of FY 1990 were subject to the extended coverage provisions under the 1988 catastrophic coverage act while patients discharged during the remainder of FY 1990 were subject to the more restrictive coverage provisions that were in effect before January 1, 1989. As discussed in section II.A.4.d of the addendum to this proposed rule, we developed an adjustment factor that we believe appropriately accounts for the extended coverage provisions that were in effect during the first 3 months of FY 1990.

At the national level, our simulation of the proposed FY 1992 prospective payment rates shows that the average payment to hospitals will increase 2.1 percent. Geographically, urban hospitals can expect an increase of 1.5 percent with hospitals in the large urban areas receiving an increase of 1.6 percent and hospitals in the other urban areas receiving an increase of 1.5 percent. Hospitals in rural areas can expect an increase in the average payment of 5.4 percent.

The analysis by census division shows that among urban hospitals, those in West South Central census division are projected to receive the largest increase in payments per case of 1.8 percent. However, it should be noted that, with the exceptions of the New England and Middle Atlantic census divisions, there is a difference of only two-tenths of a percentage point. The projected increases for the urban New England and Middle Atlantic census divisions are 1.4 percent and 1.2 percent, respectively.

Among the rural areas, the West South Central census division will receive the largest increase in payments per case of 7.3 percent. The smallest increase is projected for the Middle Atlantic census division. We project this increase to be 4.2 percent.

Consistent with our expectations, reclassified hospitals would gain the most under policies being proposed in this document. Those hospitals that are reclassified for the purpose of obtaining both a higher wage index and a standardized amount are projected to receive an increase of 10.3 percent, while hospitals reclassified only for the wage index will receive an 8.2 percent increase, and hospitals reclassified only for the standardized amount will receive a 7.4 percent increase. Also, rural

hospitals with between 150 and 200 beds are projected to receive a payment increase of 5.9 percent. The smaller rural hospitals, with bed sizes of fewer than 50 beds and between 50 and 100 beds, are projected to receive an increase equal to 4.5 percent and 5.7 percent, respectively. As a group, hospitals that were not reclassified can expect an increase of 1.4 percent.

Among hospitals grouped by type of facility or special payment status, rural sole community hospitals that also receive a disproportionate share adjustment can expect an increase of 5.0 percent while rural referral centers can expect an increase of 5.6 percent. When looked at from the type of ownership,

government-controlled facilities can expect to receive an increase of 2.4 percent compared to a 1.9 percent increase for voluntary hospitals.

As a general conclusion, the single factor increase dominates the outcome of our simulation (other than the update factor) is the reclassification of hospitals. Because of the requirements to maintain budget neutrality, our simulation shows a general redistribution of prospective payments from hospitals located in urban area to hospitals located in rural areas. This reflects the reclassification of many rural hospitals to urban areas. But it should be noted that some urban areas hospitals have also been reclassified

either from other urban to large urban areas or large urban to other urban.

Table II presents the projected average payments per case under the changes proposed for FY 1992 for urban and rural hospitals and for the different categories of hospitals shown in table I, and it compares them with the average estimated per case payments that were effective January 1, 1991. As such, this table presents, in terms of the average dollar amounts paid per discharge, the combined effects of the changes presented in table I. That is, the percentage change in average payments from January 1, 1991 to October 1, 1991 equals the percentage changes shown in the last column of table I.

TABLE II—COMPARISON OF PAYMENT PER CASE

[FY 1992 Compared to FY 1991]

	Number of hospitals	Average FY 1991 payment per case (1)	Average FY 1992 payment per case (2)	Percentage change ¹ (3)
All hospitals	5,461	5,249	5,357	2.1
Urban by region:				
New England	176	6,182	6,271	1.4
Middle Atlantic	477	6,381	6,456	1.2
South Atlantic	449	5,344	5,436	1.7
East North Central	522	5,524	5,611	1.6
East South Central	176	4,933	5,010	1.6
West North Central	191	5,577	5,666	1.6
West South Central	363	5,182	5,275	1.8
Mountain	118	5,596	5,692	1.7
Pacific	511	6,500	6,611	1.7
Puerto Rico	49	2,222	2,257	1.6
Rural by region:				
New England	57	4,251	4,432	4.3
Middle Atlantic	81	3,982	4,148	4.2
South Atlantic	318	3,444	3,594	4.4
East North Central	310	3,456	3,643	5.4
East South Central	294	3,078	3,240	5.3
West North Central	562	3,190	3,381	6.0
West South Central	408	3,085	3,309	7.3
Mountain	244	3,656	3,868	5.8
Pacific	151	4,136	4,358	5.3
Puerto Rico	6	1,479	1,543	4.4
Large urban areas (populations over 1 million)	1,471	6,246	6,343	1.6
Other urban areas (populations of 1 million or fewer)	1,561	5,224	5,304	1.5
Geographic reclassification:				
Standardized amount	20	3,831	4,116	7.4
Wage index	517	4,262	4,614	8.2
Standardized amount & wage index	65	5,009	5,526	10.3
No reclassification	4,807	5,368	5,444	1.4
Urban hospitals	3,032	5,728	5,816	1.5
0-99 beds	747	4,122	4,204	2.0
100-199 beds	882	4,877	4,956	1.6
200-299 beds	638	5,383	5,468	1.6
300-499 beds	550	5,916	6,003	1.5
Over 500 beds	212	7,275	7,383	1.5
Rural hospitals	2,429	3,400	3,583	5.4
0-49 beds	1,215	2,872	3,002	4.5
50-99 beds	736	3,158	3,339	5.7
100-149 beds	253	3,507	3,709	5.8
150-200 beds	111	3,601	3,814	5.9
Over 200 beds	114	4,061	4,263	5.0
Teaching status:				
Non-teaching	4,271	4,326	4,440	2.6
Resident/bed ratio less than 0.25	958	5,743	5,837	1.6
Resident/bed ratio 0.25 or greater	232	9,035	9,163	1.4
Disproportionate share hospitals (DSH):				
Non-DSH	4,013	4,712	4,828	2.5
Urban DSH				
Fewer than 100 beds	68	4,094	4,197	2.5
100 beds or more	1,098	6,470	6,558	1.4

TABLE II—COMPARISON OF PAYMENT PER CASE—Continued

[FY 1992 Compared to FY 1991]

	Number of hospitals	Average FY 1991 payment per case (1)	Average FY 1992 payment per case (2)	Percentage change ¹ (3)
Rural DSH:				
Fewer than 100 beds—not rural referral centers or sole community hospitals.....	141	2,742	2,869	4.7
100 beds or more—not rural referral centers or sole community hospitals.....	45	3,137	3,275	4.4
Sole community hospitals.....	64	3,374	3,541	5.0
Rural referral centers and sole community or rural referral centers.....	32	4,093	4,261	4.1
Urban teaching and DSH:				
Both teaching and DSH.....	591	7,216	7,306	1.3
Teaching and no DSH.....	517	5,830	5,931	1.7
No teaching and DSH.....	575	5,119	5,202	1.6
No teaching and no DSH.....	1,349	4,702	4,782	1.7
Other special status (rural):				
Non SCH/RRC rural hospital.....	1,140	3,039	3,202	5.4
Sole community hospital or Medicare dependent.....	1,132	3,456	3,640	5.3
Sole community hospital.....	509	3,443	3,627	5.3
Rural referral center (RRC).....	203	3,956	4,179	5.6
Medicare-dependent.....	553	2,990	3,141	5.0
Sole community and rural referral center.....	31	4,384	4,620	5.4
Medicare utilization as a percent of inpatient days:				
0-25.....	354	7,107	7,188	1.1
25-50.....	2,886	5,494	5,604	2.0
50-65.....	1,655	4,584	4,693	2.4
Over 65.....	374	4,412	4,514	2.3
Type of ownership:				
Voluntary.....	2,986	5,430	5,536	1.9
Proprietary.....	835	4,727	4,838	2.3
Government.....	1,507	4,790	4,907	2.4

¹ Percentage changes shown in this column are taken from Table I, column 3. Because the dollar amounts shown in this table are rounded to the nearest dollar, percentage changes computed on the basis of these amounts will differ slightly from those displayed in the last column of Table I.

Appendix B

April 4, 1991.

The Honorable Dan Quayle,
President of the Senate,
Washington, DC 20510

Dear Mr. President: Section 1886(e)(3)(B) of the Social Security Act requires that the Secretary of Health and Human Services, not later than March 1, 1991, report to the Congress his initial estimate of the applicable percentage increase for FY 1992 that he will recommend for hospitals subject to the Medicare prospective payment system (PPS) and for excluded hospitals and units. This submission constitutes the required report.

President Bush's budget incorporates updates consistent with those mandated by current law. The budget recommends an update for hospitals subject to the PPS equal to the rate of increase in the hospital market basket minus 1.6 percentage points for urban hospitals, and the rate of increase in the hospital market basket minus 0.6 percentage points for rural hospitals. For hospitals excluded from PPS, the budget includes an average increase in the Tax Equity and Fiscal Responsibility Act (TEFRA) limit equal to the rate of increase in the TEFRA hospital market basket. In addition, the budget contains a legislative proposal to move the annual update for hospitals from October 1 to January 1 to conform with the update cycle generally used in Medicare.

We have not had the opportunity to evaluate fully the recommendations of the Prospective Payment Assessment Commission (ProPAC). Our recommendation for the updates is contingent on current

projections of relevant data. The President's budget assumed the hospital market basket would increase by 5.5 percent. Our most current projection is that the PPS hospital market basket will increase by 3.8 percent, and the TEFRA hospital market basket will increase by 4.0 percent. A final recommendation on the appropriate percentage increases for FY 1992 will be made nearer the beginning of the new Federal fiscal year based on the most current market basket projection available at that time. The final recommendation will incorporate our analysis of the latest estimates of all relevant factors, including ProPAC's recommendations.

Section 1886(d)(4)(C)(iv) of the Social Security Act, as enacted by section 6003(b)(2) of the Omnibus Budget Reconciliation Act of 1989, requires that the Secretary include in his report recommendations with respect to adjustments to the diagnosis-related group (DRG) weighting factors. We do not recommend any adjustment to the DRG weighting factors for FY 1992.

My staff and I look forward to discussing this recommendation with you.

Sincerely,
Louis W. Sullivan.

April 4, 1991.

The Honorable Thomas S. Foley,
Speaker of the House of Representatives,
Washington, DC 20510

Dear Mr. Speaker: Section 1886(e)(3)(B) of the Social Security Act requires that the Secretary of Health and Human Services, not later than March 1, 1991, report to the Congress his initial estimate of the applicable

percentage increase for FY 1992 that he will recommend for hospitals subject to the Medicare prospective payment system (PPS) and for excluded hospitals and units. This submission constitutes the required report.

President Bush's budget incorporates updates consistent with those mandated by current law. The budget recommends an update for hospitals subject to the PPS equal to the rate of increase in the hospital market basket minus 1.6 percentage points for urban hospitals, and the rate of increase in the hospital market basket minus 0.6 percentage points for rural hospitals. For hospitals excluded from PPS, the budget includes an average increase in the Tax Equity and Fiscal Responsibility Act (TEFRA) limit equal to the rate of increase in the TEFRA hospital market basket. In addition, the budget contains a legislative proposal to move the annual update for hospitals from October 1 to January 1 to conform with the update cycle generally used in Medicare.

We have not had the opportunity to evaluate fully the recommendations of the Prospective Payment Assessment Commission (ProPAC). Our recommendation for the updates is contingent on current projections of relevant data. The President's budget assumed the hospital market basket would increase by 5.5 percent. Our most current projection is that the PPS hospital market basket will increase by 3.8 percent, and the TEFRA hospital market basket will increase by 4.0 percent. A final recommendation on the appropriate percentage increases for FY 1992 will be made nearer the beginning of the new Federal fiscal year based on the most current

market basket projection available at that time. The final recommendation will incorporate our analysis of the latest estimates of all relevant factors, including ProPAC's recommendations.

Section 1886(d)(4)(C)(iv) of the Social Security Act, as enacted by section 6003(b)(2) of the Omnibus Budget Reconciliation Act of 1989, requires that the Secretary include in his report recommendations with respect to adjustments to the diagnosis-related group (DRG) weighting factors. We do not recommend any adjustment to the DRG weighting factors for FY 1992.

My staff and I look forward to discussing this recommendation with you.

Sincerely,

Louis W. Sullivan.

Appendix C: Recommendation of Update Factors for Rates of Payment for Inpatient Hospital Services

I. Background

Several provisions of the Social Security Act (the Act) apply to setting update factors for services furnished in FY 1992 by hospitals subject to the prospective payment system and those excluded from the prospective payment system. Section 1886(b)(3)(B)(i) of the Act, as modified by sections 4002 (a) and (c) of Public Law 101-508, set the FY 1992 applicable percentage increase for prospective payment hospitals for FY 1991 as the market basket percentage increase minus 1.6 percentage points for hospitals located in urban areas and the market basket percentage increase minus 0.6 percentage points for hospitals located in rural areas. Section 1886(b)(3)(B)(ii) of the Act governs the target rate-of-increase limits for hospitals excluded from the prospective payment system and the hospital-specific rate applicable to sole community and Medicare-dependent small rural hospitals. In accordance with section 1886(d)(3)(A) of the Act, we are proposing to update the average standardized amounts, the hospital-specific rates and the target rate-of-increase limits for hospitals excluded from the prospective payment system as provided for in section 1886(b)(3)(B) of the Act, as set forth above.

Sections 1886(e) (2)(A) and (3)(A) of the Act require that the Prospective Payment Assessment Commission (ProPAC) recommend to the Congress by March 1, 1991 an update factor that takes into account changes in the market basket index, hospital productivity, technological and scientific advances, the quality of health care provided in hospitals, and long-term cost effectiveness in the provision of inpatient hospital services.

In its March 1, 1991 report, ProPAC recommended update factors to the standardized amounts equal to the

percentage increase in HCFA's market basket rate of increase minus 1.6 percentage points for urban hospitals and the market basket rate of increase minus 0.6 percentage points for hospitals located in rural areas. Further, ProPAC recommended an update to the standardized amounts equal to 3.2 percent for hospitals located in urban areas and 4.2 percent for hospitals located in rural areas (based on a market basket estimate of 4.8 percent). The components of the update factor recommendations are described in detail in the ProPAC report, which is published as appendix D to this document. ProPAC did not make a recommendation regarding the update for the hospital-specific rates applicable to sole community and Medicare-dependent, small rural hospitals. We discuss ProPAC's recommendations concerning the update factors and our responses to those recommendations below.

Section 1886(e)(4) of the Act, as amended by section 4002(f) of Public Law 100-203, requires that the Secretary, taking into consideration the recommendations of ProPAC, recommend update factors for FY 1992 that take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. Under section 1886(e)(5) of the Act, we are required to publish the recommended FY 1992 update factors that are provided for under section 1886(e)(4) of the Act. Accordingly, the purpose of this appendix is to provide our recommendations of appropriate update factors, our analysis of the derivation of the amount of the update factors, and our responses to the ProPAC recommendations concerning the update factors.

II. Secretary's Recommendations

Under section 1886(e)(4) of the Act, we are recommending that the standardized amounts be increased by an amount equal to the market basket percentage increase minus 1.6 percentage points for hospitals located in urban areas and the market basket percentage increase minus 0.6 percentage points for hospitals in rural areas. Based on the currently forecasted market basket increase of 3.6 percent, the recommended updates would be 2.2 percent for hospitals in urban areas and 3.2 percent for hospitals in rural areas. We are recommending that the hospital-specific rate applicable to sole community hospitals and Medicare-dependent, small rural hospitals be updated by an amount equal to the market basket percentage increase

minus 1.6 percentage points or 2.2 percent. With the exception of the higher update for the rural standardized amount, we believe that the considerations used to develop our update recommendations for the standardized amounts and also applicable to the hospital-specific rates for sole community and Medicare-dependent, small rural hospitals. Our recommendation for a higher update to the rural standardized amount is intended to reduce the differential between the standardized amounts for other urban and rural hospitals, which is not an applicable consideration for hospital-specific rates.

We recommend that hospitals excluded from the prospective payment system receive, on average, and update equal to the percentage increase in the market basket that measures input price increases for services furnished by excluded hospitals. That market basket is currently forecast at 4.0 percent. However, we are also recommending that the amount of the update vary according to the base year used to establish the excluded hospital or unit's rate of increase. Those hospitals and units whose base year for purposes of the rate of increase limit began during the period FY 1983 through FY 1987 would receive a higher update than hospitals whose base year was established in FY 1982 or after FY 1987. The amount of the recommended HCFA update is dependent on the actual base year, as follows:

Base year began in FY	FY 1992 general update	FY 1992 additional update	Recommended FY 1992 update
1982.....	3.1		3.1
1983.....	3.1	1.4	4.5
1984.....	3.1	2.8	5.9
1985.....	3.1	4.6	7.7
1986.....	3.1	2.9	6.0
1987.....	3.1	1.4	4.5
1988 and later.....	3.1		3.1

In recommending these increases, we have followed section 1886(e)(4) of the Act which indicates we should take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. In addition, as required by section 1886(e)(4) of the Act, we have taken into consideration the recommendations of ProPAC. Our responses to the ProPAC recommendations concerning the update factor are discussed below.

III. ProPAC Recommendations for Updating the Prospective Payment System Standardized Amounts and our Response

For FY 1992, ProPAC recommends that the standardized amount be updated by the following factors:

- The projected increase in the hospital market basket (which was estimated to be 4.8 percent in ProPAC's March 1, 1991 report), plus 0.2 percentage points to account for the different wage and salary price proxies used for the ProPAC market basket.
- A correction of—1.0 percent to reflect the forecast error in the FY 1990 market basket rate of increase.
- A discretionary adjustment factor of 0.2 percent composed of an allowance of 0.7 percent for scientific and technological advancement and an allowance of—0.5 percent for productivity improvement.
- An adjustment for case-mix change of—1.0 percent.
- A differential update of 1.0 percent for hospitals located in rural areas, to reflect the phasing out of the differential in the standardized amounts between rural and other urban hospitals.

Overall, the net increase employing the above factors is the percentage increase in the hospital market basket minus 1.6 percentage points for urban hospitals and the market basket minus 0.6 percentage points for rural hospitals. Based on the market basket estimate of 4.8 percent used in its March 1, 1991 report, ProPAC recommends a differential update for urban and rural hospitals, with urban hospitals receiving a 3.2 percent update, and rural hospitals receiving a 4.2 percent update.

Response: We are recommending an update that is consistent with the Administration's budget proposal that all hospitals receive an update in their payments for FY 1992 based on the current market basket forecast with the adjustments set forth in Public Law 101-508. The latest forecast shows that the FY 1992 market basket has declined from 4.8 percent, the figure used by ProPAC in determining its update recommendations, to 3.8 percent between the fourth quarter of 1990 and the first quarter of 1991. The largest decreases occurred in the employment cost index for hospital workers and the producer price index for chemicals. The significant decrease in the forecast stemmed mainly from the Middle East crisis and the predicted recession. Downward pressure on prices is predicted through FY 1992 as demand for products continues to fall and unemployment continues to rise.

Our recommendation is supported by the following analyses which measure changes in hospital productivity, scientific and technological advances, practice pattern changes, and changes in case mix:

- **Productivity:** At the beginning of the prospective payment system update process, HCFA established a conservative normative standard for hospital productivity increases of 1.0 percent per year, which is equal to the average long-run productivity growth in the U.S. economy. In the short run, any increases in productivity in excess of 1.0 percent would be kept by hospitals as increases in operating margins. Productivity increases of more than 1.0 percent would be encouraged by this standard. We believe that substantial gains can be made in hospital productivity and that we should continue to provide an incentive to increase productivity.

ProPAC also believes hospitals should be given an incentive for additional productivity improvement. ProPAC measures productivity as the ratio of hospital admissions (adjusted for case mix and outpatient services) per FTE employee (adjusted for changes in skill mix). ProPAC includes in its productivity measurement the effect of changes in practice patterns. We have traditionally treated historic practice pattern changes as a separate factor because they represent changes that have occurred in the nature of the hospital product. This year, ProPAC assumes a productivity gain of at least 1.0 percent and recommends a —0.5 percentage point adjustment on the basis that any productivity gains should be shared equally by Medicare and hospitals.

- **Quality Enhancing New Science and Technology:** The new science and technology factor is intended to recognize technological changes that increase costs but also enhance health status. We have no empirical evidence that accurately sets the level for this factor. Typically, a specific new technology increases costs in some uses and decreases costs in other uses. Concurrently, in some situations, health status is improved while in other situations it may be unaffected or even worsened using the same technology. It is difficult to separate out the relative significance of each of the cost-increasing effects for individual technologies and new technologies. In the early years of the prospective payment system, ProPAC conducted several studies of new technology costs and concluded that they were fairly low. Those studies focused primarily on the acquisition costs of the new

technologies but also looked at diffusion and operating costs. Project Hope, under contract with ProPAC, annually estimates the incremental operating costs of specific cost-increasing technologies. However, we know of no definitive studies that establish an appropriate level or range for this factor. ProPAC's adjustment is for the cost-increasing effect of new technologies only, and this year assumes the range of estimated costs for these technologies at 0.5 to 1.0 percent, with a best estimate of 0.7 percent.

We believe that the ProPAC estimate may be overstated for several reasons. First, the estimate does not account for offsetting changes in revenue due to changes in DRG assignment. More than 25 percent of the adjustment is attributable to implantable defibrillators, which would normally involve reassignment to a higher-weighted DRG and thus higher payment than would have been made if the patient had not received the defibrillator. Second, it is not clear that all of the new technologies listed in ProPAC's study significantly enhance health status. Examples are the adjustments for thrombolytic agents and low osmolar and nonionic contrast agents. Further, Medicare does not cover positron emission tomography on the basis that is investigative and restricts coverage for implantable infusion pumps. To the extent the new technologies are not quality enhancing, and adjustment is inappropriate. Finally, some of the technologies, such as percutaneous transluminal coronary angioplasty (PTCA), have considerable potential for cost savings relative to the technologies they are replacing.

Until a usable measure for the incremental operating costs associated with the implementation of these new sciences and technologies is developed, we believe that this adjustment should be set at a conservative, stable level. We recommend an adjustment of +0.3 to +0.5 percent.

- **Improvements in Practice Patterns:** We measure practice pattern changes based on changes in average length of stay since the beginning of the prospective payment system. Although we have no complete measure of changes in practice patterns, we believe this factor can be modeled appropriately based on this measure. The practice pattern adjustment is based on the belief that the costs on which the initial payment rates were based included a component of unnecessarily high costs reflecting ineffective practice patterns and that it is reasonable for us to share in the savings in the long run.

Average length of stay declined dramatically during the first years of the prospective payment system and gradually increased in subsequent years. However, our latest data indicate that average length of stay declined again and has remained stable over the last few years. Based on updated data on changes in average length of stay and the cumulative practice pattern adjustment implicit in prior update recommendations, we estimate that a residual adjustment of up to -1.85 percent could be supported.

Overall, the combined adjustment for productivity, technology, and practice pattern changes could range from -2.5 to -0.5 percentage points.

• Change in Case Mix: Our analysis takes into account changes in case mix, net of changes attributable to improved coding practices and DRG reclassification and recalibration. We found that the observed increase in case mix was 2.0 percent during FY 1990. We estimate real case mix increase at 1.0 percent. We define real case-mix change as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that result in assignment of cases to higher-weighted DRGs but do not reflect greater resource requirements. This estimate is supported by past studies of case-mix change by RAND Corporation. In addition, we estimate that DRG reclassification and recalibration in FY 1990 resulted in a 0.8 percent decrease in the case-mix index. The resulting adjustment to account for changes in case mix during FY 1990, the most recent year for which data are available, is -0.2 percent (the sum of -2.0, +1.0 and +0.8). The -2.5 and 1.5 percent figures used in the ProPAC framework represent ProPAC's projection for observed case-mix change and real case-mix change, including within-DRG case complexity change, during FY 1991. ProPAC's observed case-mix change is estimated whereas our observed case-mix change is based on FY 1990 bills received through February 28, 1991.

• Correction for Market Basket Forecast Error: The FY 1990 estimated market basket percentage increase used to update the payment rates was 5.5 percent. Our most recent data indicate the actual FY 1990 increase was 4.6 percent, reflecting that the increase in wages and malpractice premiums was lower than projected. The resulting forecast error in the projected FY 1990 market basket rate of increase forecast was -0.9 percentage points. Our policy has been to make a forecast error correction if our estimate is off by 0.25

percentage points or more. Therefore, we are recommending an adjustment of -0.9 percentage points to reflect this overestimation of the FY 1990 market basket. ProPAC's recommended adjustment of -1.0 percentage points was based on an earlier estimate of the FY 1990 forecast error.

The following is a summary of the update ranges supported by our analyses compared to ProPAC's framework.

TABLE 1.—COMPARISON OF FY 1992 UPDATE RECOMMENDATIONS

	HHS	ProPAC
Policy Adjustment Factors:		
Productivity	-1.0	-0.5
Science and Technology	+0.3 to +0.5	+0.7
Practice Patterns	-1.8 to 0.0	
Subtotal	-2.5 to -0.5	+0.2
Observed Case Mix Change	-2.0	-2.5
Real Across DRG Change	+1.0	+1.3
Real Within DRG Change		+0.2
Effect of 1990 Reclassification and Recalibration	+0.8	
Subtotal	-0.2	-1.0
Forecast Error Correction	-0.9	-1.0
Difference Between HCFA & ProPAC Forecasts		+0.2
Total Recommended Update	-3.6 to -1.6	-1.6

We believe the above analysis supports a recommendation that the standardized amounts applicable to urban hospitals and the hospital-specific rates applicable to sole community hospitals and Medicare-dependent small rural hospitals be updated in FY 1992 by an amount equal to the market basket percentage increase minus 1.6 percentage points. However, we believe a differential update for the standardized amount applicable to rural hospitals is appropriate in order to phase out the differential between the rural and other urban standardized amounts. Therefore, we are recommending that the rural standardized amount be updated by an additional 1.0 percentage point, for a total update of 3.2 percent (that is, market basket minus 0.6 percentage points).

We note that we are in the process of refining our analytical framework for the update recommendation. Our intent is to develop an expanded conceptual framework and appropriate measures

for each component that would be used to support our update recommendations for FY 1993 and thereafter. We invite public comment on the appropriate factors and measures that should be taken into consideration in determining an appropriate update that would take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

IV. ProPAC's Recommendation for Updating the Rate-of-Increase Limits for Excluded Hospitals

ProPAC recommends an update factor equal to the market basket rate of increase minus 0.7 percentage points for excluded hospitals and units. The 0.7 percentage point reduction represents a reduction of -1.0 percentage points to account for the forecast error in the FY 1990 market basket rate of increase for excluded units, a 0.2 percentage point increase to reflect the different compensation price proxies used by ProPAC, and an allowance for new technology of 0.1 percent. (We note that in FY 1990 the prospective payment system hospital market basket was also used for excluded hospitals.) Further, ProPAC recommends an additional allowance based on the year the hospital or unit was excluded from the prospective payment system. Before FY 1989, excluded hospitals and units received the prospective payment system update, which was reduced to account for rapid growth in payments due to case-mix increases. Since excluded facilities do not benefit from the payment-increasing effect of case-mix index change, ProPAC believes that these hospitals should receive the applicable full market basket increase for years prior to 1989. ProPAC believes this recommendation would result in total payments to excluded hospitals approximating those that would have resulted from updates equal to the rate of increase in the market basket for excluded hospitals.

Response: We recommend an average update for excluded hospitals that would result in total payments comparable to those that would result from an update equal to the market basket rate of increase. The market basket for excluded hospitals is currently estimated at 4.0 percent. However, we recommend that excluded hospitals and units whose base year began during the period FY 1983 through FY 1987 would receive a higher update than hospitals whose base year began in FY 1982 or after FY 1987.

We recommend that excluded hospitals and units with an FY 1982 base

year or a base year that began after FY 1987 receive an update equal to the market basket percentage increase minus 0.9 percent. The -0.9 percentage point adjustment is to account for the forecast error in the FY 1990 market basket rate of increase. Generally, we believe that increased costs for quality-enhancing new technologies should be offset by productivity gains and that explicit adjustments in the rate-of-

increase limit for productivity and new technology are inappropriate.

In addition, we agree with ProPAC that a higher update for hospitals and units that were excluded in the early years of the prospective payment system is appropriate. This is because the updates applied to excluded hospitals in fiscal years 1986, 1987, and 1988 were considerably less than the market basket rate of increase and were based

on some considerations appropriate only to hospitals subject to the prospective payment system. However, we disagree with the amount of the higher update recommended by ProPAC for several reasons. First, we disagree with the amount of the shortfall computed by ProPAC in its recommendation, as follows:

Fiscal year	ProPAC market basket change	ProPAC excluded update	ProPAC computed difference	Actual market basket change ¹	Actual excluded update	Actual difference
1983.....	NA	NA	NA	5.9	8.58	+2.68
1984.....	4.9	4.7	-0.2	4.9	7.08	+2.18
1985.....	3.9	4.5	+0.6	3.9	6.78	+2.88
1986.....	3.1	0.5	-2.6	3.1	0.50	-2.60
1987.....	3.6	1.2	-2.5	3.5	1.15	-2.35
1988.....	4.8	2.7	-2.1	4.8	2.70	-2.10

¹ Actual change in the 1982-based market basket.

² Average update—actual update was based on cost reporting periods. Budget neutrality adjustment applicable to the prospective payment system hospitals did not affect the update for excluded hospitals.

We note that the first year that hospitals and units were subject to the rate of increase limit was FY 1983. The actual average update to the target rate for cost reporting periods beginning in that fiscal year was 8.58 percent compared to the market basket rate of increase of 5.9 percent for FY 1983.

Second, in recommending a cumulative positive allowance adjustment for excluded hospitals and units, ProPAC presented its recommended adjustments based on the year of exclusion from the prospective payment system. This is somewhat misleading because hospitals and units are not subject to the rate of increase limit during the first year of exclusion from the prospective payment system. Newly certified excluded units are subject to the rate of increase limit beginning with the first cost reporting period following the year of exclusion (its base period). Newly certified excluded hospitals are not subject to the rate of increase limit until the beginning of the third cost reporting period after the first patient is admitted. For these hospitals, the base period would be the preceding cost reporting period. In addition, the cumulative adjustment for hospitals with an FY 1982 base year is negative if the adjustment is developed from the cumulative difference between the market basket increase and the actual updates to the target amounts. Relating the actual difference between the market basket percentage and the updates to the hospital or unit's base period, the cumulative differences are as follows:

Base year began in FY	FYs subject to ceiling	Compounded adjustment	¹ ProPAC recommendation
1982.....	1983-1988	-0.5	6.6
1983.....	1984-1988	2.1	6.6
1984.....	1985-1988	4.2	6.4
1985.....	1986-1988	6.9	7.0
1986.....	1987-1988	4.4	4.5
1987.....	1988	2.1	2.1

¹ Based on year of exclusion.

Finally, the ProPAC recommendation would result in a substantial increase in program payments. It is not clear that such an expenditure is warranted or that any increase in payments is more appropriately distributed to excluded hospitals through a differential update factor rather than through a more targeted approach. While some hospitals have been adversely affected by the rate-of-increase limits, others have managed to receive substantial incentive payments. Further analysis is needed to understand why some hospitals have fared well and others have not before determining whether an across-the-board increase is more appropriate than one targeted toward groups of hospitals whose costs are systematically above the rate-of-increase limit. Additionally, the lower updates are only one dimension of why hospitals with early base years are more financially vulnerable than hospitals that more recently became subject to the rate-of-increase limits. Another consideration is that these hospitals have been subject to the limits for a longer period of time and, in the case of those hospitals with an FY 1982 or FY 1983 base year, have a target amount that was established before the

prospective payment system was implemented. It is for this reason that we are recommending a 3.1 percent update for hospitals with an FY 1982 base year even though a lower update would appear warranted based on the cumulative difference between the market basket increase and the update factors.

We believe any increase in aggregate payments to excluded hospitals and units is premature until these issues are more fully evaluated. In this regard, we note that the Secretary is required by section 4005(b) of Public Law 101-508 to report to the Congress on recommendations for potential modifications to the rate-of-increase limits system as well as the possible replacement of that system with a prospective payment system. At the same time, we believe the analysis of the cumulative difference between the market basket rate-of-increases and the update factors supports a recommendation for differential updates. We have used the results of the analysis to determine differential update factors that will result in program outlays that would approximate the outlays that would result from a 4.0 percent update. Our recommended update factor is 3.1 percent for all excluded hospitals and units plus an additional update for hospitals and units that became subject to the ceiling during the period FY 1984 through FY 1988. The recommended updates are as follows:

Base year began in FY	General update	HCFA recommended additional adjustment	HCFA recommended FY 1992 update
1982.....	3.1		3.1
1983.....	3.1	1.4	4.5
1984.....	3.1	2.8	5.9
1985.....	3.1	4.6	7.7
1986.....	3.1	2.9	6.0
1987.....	3.1	1.4	4.5
1988 and later.....	3.1		3.1

Appendix D—Prospective Payment Assessment Commission

Report and Recommendations to the Congress

March 1, 1991

Prospective Payment Assessment Commission

Stuart H. Altman, Ph.D., *Chairman*

Richard A. Berman
James D. Bernstein
Curtis C. Erickson
William D. Fullerton
William S. Hoffman, Ph.D.
Larry L. Mathis
Barbara J. McNeil, M.D.
Kathryn M. Mershon

Donald R. Oder
Elliott C. Roberts, Sr.
J. Michael Sadaj, M.D.
Leonard D. Schaeffer
Jack K. Shelton
J.B. Silvers, Ph.D.
Bruce C. Vladeck, Ph.D.
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Staff and Consultants

Donald A. Young, M.D., *Executive Director*
Laura A. Dummit, *Deputy Executive Director*
Stuart Guterman, *Deputy Executive Director*
John L. Ashby
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Amy B. Bernstein, Sc.D.
Wylene Carlyle
Carol L. Carter, Ph.D.
Delores J. Curtis
Jennifer Ehreth, Ph.D.
Jolene A. Hall
Kirsten Iversen
Carrie L. Johnson
Amy D. Kossoff, M.D.

Prospective Payment Assessment Commission

March 1, 1991.

The Honorable Dan Quayle,
President of the Senate, United States Senate, Washington, D.C. 20510.

Dear Mr. President: I am hereby transmitting to the Congress the annual report of the Prospective Payment Assessment Commission as required by section 1886(e)(3) of the Social Security Act as amended by Public Law 101-508. This report presents the Prospective Payment Assessment Commission's framework for assessing potential refinements of Medicare payment policies. The report also contains 10 recommendations and addresses several additional concerns that reflect the Commission's collective judgment about issues of substantial importance to beneficiaries, hospitals, other providers, and the Medicare program.

Sincerely,

Stuart H. Altman,
Chairman.

Enclosure

Prospective Payment Assessment Commission

March 1, 1991.

The Honorable Thomas Foley,
Speaker, United States House of Representatives, Washington, DC 20515.

Dear Mr. Speaker: I am hereby transmitting to the Congress the annual report of the Prospective Payment Assessment Commission as required by section 1886(e)(3) of the Social Security Act as amended by Public Law 101-508. This report presents the Prospective Payment Assessment Commission's framework for assessing potential refinements of Medicare payment policies. The report also contains 10 recommendations and addresses several additional concerns that reflect the Commission's collective judgment about issues of substantial importance to beneficiaries, hospitals, other providers, and the Medicare program.

Sincerely,

Stuart H. Altman,
Chairman

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Executive Summary

In this report for fiscal year 1992, the Prospective Payment Assessment Commission (ProPAC) presents its framework for assessing potential refinements to Medicare payment policies. The Commission also presents 10 recommendations and addressed several additional concerns. This report reflects the analysis and collective judgment of ProPAC's Commissioners about issues of substantial importance to beneficiaries, hospitals, other providers, and the Medicare program. The report and recommendations are made directly to Congress, although the Secretary of the Department of Health and Human Services is required to respond to them.

ProPAC's responsibilities have expanded over time to include analyzing and developing prospective payment policies for all facility services furnished to Medicare beneficiaries. The Congress has also asked ProPAC to examine and report on broader issues regarding the effectiveness and quality of health care delivery in the United States. However the Commission will continue to devote substantial effort to updating and improving policies for paying hospitals under the prospective payment system (PPS) and policies for paying hospitals from PPS.

MEDICARE PROSPECTIVE PAYMENT: ASSESSING POTENTIAL REFINEMENTS

The first seven years of PPS have seen dramatic changes in the rate of increase in Medicare payments and in hospital performance. PPS uses prospectively determined rates based on average costs per case to create incentives for hospitals to control costs. An annual update is used to increase the rates and to provide some control over the level of Medicare payments.

The components of PPS are intended to distribute these payment equitably. Over time, refinements to the structure of PPS have substantially affected the level and distribution of payments. However, some of these refinements and their interactions may also have altered the incentives of PPS.

ProPAC has been evaluating the factors that determine Medicare payments and their effects on hospitals' financial condition since the beginning of PPS. Both Medicare inpatient hospital payments and total Medicare payments have grown at a slower rate under PPS than before. At the same time, growth in hospital costs has moderated, but not as much as expected.

Hospital costs continue to grow faster than Medicare payments. By fiscal year 1988, both PPS margins and total margins had declined to their lowest levels since PPS began. However, total margins remain comparable to what they were before PPS. Differences among hospitals in both PPS and total margins have widened, and many hospitals face greater financial risk than before PPS. If these trends continue, access to care and quality of that care could be adversely affected for some Medicare beneficiaries. In addition, attempts to generate revenue from other sources may increase costs to private third-party payers, employers, and patients.

In a sense, the effects of PPS's incentives are now becoming evident. As more hospitals' PPS margins fall below zero, they will feel more pressure to change their behavior than they did when PPS payments exceeded costs. Conclusions about the effects of PPS on hospitals' financial behavior may be made more confidently when this information is available.

Changes have been made or are being considered in almost all of the major components of PPS. Some of these improvements have been attempts to fine-tune components of PPS that were part of the system from the beginning. Others have been intended to mitigate perceived inequities. Taken together, they have had a significant effect on the level and distribution of payments across hospitals.

PPS is a per-case payment system. It consists primarily of a base payment rate (the standardized payment amount) and several adjustments. An area wage index is used to reflect geographic differences in the cost of labor. Diagnosis-related groups (DRGs) are used to classify patients by diagnosis and procedure. Variations in the cost of care are measured by the DRG relative weights. Certain hospital characteristics are also reflected in the payment system. The indirect medical education (IME) adjustment is intended to recognize additional costs faced by teaching hospitals in treating Medicare patients. The disproportionate share (DSH) adjustment is used to pay certain hospitals for the higher costs they face in treating a large proportion of poor patients and the indirect costs of operating in areas accessible to the poor. Finally, extra payments are made for outlier cases—patients with unusually long stays or high costs.

There are three standardized payment amounts: one each for hospitals in large urban areas (metropolitan areas with more than one million people), other urban areas,

and rural areas. Congress has set updates so that the differential between the standardized amounts for hospitals in other urban areas and rural areas will be eliminated over time. This change will reduce the differential in payments to urban and rural hospitals. Urban hospitals, however, will continue to receive higher payments because of higher labor costs, the treatment of a more complex mix of cases, and other factors.

The area wage index—one of the most important determinants of the distribution of PPS payments—reflects geographic differences in labor costs. However, because the wage index includes differences in occupational mix, hospitals in high wage index areas may be overcompensated. ProPAC is thus recommending that the area wage index be modified to remove the effects of differences in the mix of occupations that hospitals employ. An occupational mix adjustment would likely redistribute payments from urban areas to rural areas. In addition, occupational mix is related to other components of the payment system, such as the IME adjustment. As a result, changes to the IME adjustment may be desirable if changes to the area wage index are made.

The patients treated by a hospital are classified into DRGs. The distribution of payments can be significantly affected by changes to the structure and definitions of the DRGs. Minor refinements to the DRGs have been made regularly, and major refinements have been made periodically. Additional refinements are being considered that may affect other PPS adjustments.

The case-mix index (CMI) measures the relative costliness of the mix of patients across DRGs. Increases in the CMI have a major effect on the level and distribution of PPS payments. The CMI may change over time because patients are more severely ill, medical practices change, or hospitals refine their medical documentation and coding practices. The first two reasons require more hospital resources for patient care; the third, called upcoding, does not. Although hospitals are paid for the full increase in the CMI regardless of the reason, some of this increase has been a result of upcoding that is not associated with higher costs. ProPAC has taken this into account in its update recommendation.

The IME and DSH adjustments have a major impact on the level and distribution of payments. Both of these adjustments are currently set at levels higher than differences in Medicare costs alone would support. The payments made for both adjustments are concentrated among relatively few hospitals. Further, there is considerable overlap between the hospitals that receive these adjustments. Although this raises concerns about PPS payment equity, these concerns are tempered by awareness of the important contributions these hospitals make and evidence about their financial condition. On the one hand, the hospitals that receive these payment adjustments tend to have higher PPS margins than hospitals that do not receive them. On the other hand, they also tend to have the lowest total margins. Maintaining payments from these adjustments at levels above Medicare costs alone reflects a

judgment about the appropriate balance between two objectives: compensating only for Medicare-allowed costs and ensuring the financial stability of important groups of hospitals.

Outlier policy also affects the distribution of payments. Like the IME and DSH adjustments, outlier payments are concentrated among certain types of hospitals, including teaching hospitals. Because outliers are defined based on the DRGs, any major changes in the DRGs would have major effects on outlier payment policy.

The interaction and interdependence of the components of PPS directly affect the level and distribution of payments. This review of the structure of PPS highlights how each of the components of the payment system affects the others. These interactions require that incremental changes in payment policy not be evaluated in isolation. The Commission believes that efforts to improve the system and address perceived inequities should be evaluated in the context of the system as a whole. The recommendations in this report should also be viewed in this broader context.

Summary of the Recommendations

In Chapter 2, ProPAC presents 10 recommendations for updating and improving Medicare payment policies. The Commission also comments on other issues of importance to the Medicare program that may require action in the near future. ProPAC believes that its proposed changes are necessary for maintaining access to high-quality health care, encouraging hospital productivity and cost-effectiveness, and permitting the adoption of innovative and appropriate technological advances. The Commission developed its recommendations by setting priorities, analyzing information, and deliberating. ProPAC also responds to the concerns of the Congress, the Administration, health care providers, third-party payers, beneficiaries, and the public. The recommendations are offered to comply with the Commission's statutory mandate and to contribute to an informed and open debate about hospital payment policy and the Medicare program. For fiscal year 1992, the Commission focuses on eight broad areas:

- Updating PPS payments,
- Rural hospital payment,
- Teaching and disproportionate share hospital payment,
- Other adjustments to PPS,
- Capital payment,
- Updating and adjusting payments to PPS-excluded hospitals and distinct-part units,
- Hospital outpatient payment, and
- Uncompensated care.

Updating PPS Payments.—The Commission recommends fiscal year 1992 updates of market basket minus 1.6 percentage points for hospitals in urban areas and market basket minus 0.6 percentage points for hospitals in rural areas. Based on current Health Care Financing Administration (HCFA) projections, the updates are 3.2 percent and 4.2 percent, respectively. The average update is market basket minus 1.4 percentage points, or 3.4 percent.

The update factor recommendation combines five components. First, the fiscal year 1992 HCFA market basket is forecasted to increase 4.8 percent. Second, 0.2 percentage points are added to better reflect the increases in hospital labor costs that are not adequately measured in HCFA's market basket. Third, an adjustment of -1.0 percentage points for errors in the fiscal year 1990 market basket forecast is made. Fourth, a 0.2 percentage point discretionary adjustment reflects the Commission's judgment that the costs of scientific and technological advancement can be partially funded by hospital productivity improvements. Fifth, a -1.0 percentage point adjustment for case-mix change offsets the estimated extra revenues hospitals received in fiscal year 1991 from case-mix index increases that were not due to treating sicker patients.

The Commission supports the phased elimination of the differential in the standardized amounts of hospitals in rural areas and other urban areas. Therefore, an additional 1.0 percentage point should be added to the update for rural hospitals.

The update is only one source of the increase in total PPS payments to hospitals. Change in the case-mix index, which is estimated to rise 2.3 percent during fiscal year 1992, will also increase payments. As a result, the average increase in per-case PPS payments, including CMI change and all of ProPAC's recommendations, is expected to be 5.7 percent in fiscal year 1992.

Finally, the Commission recommends that the Secretary collect medical records data so that case-mix index change can continue to be apportioned into its real and upcoding components.

Rural Hospital Payment—Since the implementation of PPS, many changes have been made in Medicare policies to reflect the changing patterns of rural health care delivery. The Commission believes that although rural and urban hospitals have similar overall financial performance, some, but not all, rural hospitals continue to fare poorly under PPS. The performance of many rural hospitals will continue to improve as a result of recent payment policy changes directed at rural hospitals. However, increased payments have not often been targeted at specific problems or hospitals that need help. The Commission is especially concerned about the impact of declines in volume on small or isolated rural hospitals.

Ongoing analyses and congressionally requested studies will be the foundation for a report on payments to rural hospitals that the Commission will issue in mid-1991. Recommendations made in this report will suggest policy reforms tailored to specific problems faced by groups of rural hospitals.

Teaching and Disproportionate Share Hospital Payment—The Commission believes that the level of the indirect medical education adjustment should be reduced from 7.7 percent to 7.0 percent for every 10 percent increase in teaching intensity. The Commission further recommends that the savings from this reduction be returned to the standardized amounts for urban and rural hospitals.

Two factors were balanced when this

recommendation was made: a recognition that Medicare is more than adequately compensating teaching hospitals for differences in Medicare costs, and a serious concern for the continued financial stability of major teaching hospitals. Future recommendations on the IME adjustment will also consider these factors.

ProPAC also believes that it is important to examine the IME and disproportionate share adjustments to find better ways to target these payments to achieve their objectives. ProPAC will continue to address the interaction between the DSH and IME adjustments.

Other Adjustments to PPS—The Commission continues to be concerned that the area wage index overcompensates some hospitals and undercompensates others. The area wage index should be adjusted to remove the effects of differences in the mix of occupations hospitals employ. This adjustment should be based on data to be collected by the Secretary.

In addition, a one-time adjustment to the DRG recalibration process is necessary to prevent continued underpayments caused by coding and assignment changes for patients with acute myocardial infarction.

Capital Payment—Current law requires the Secretary to implement a prospective payment system for capital beginning in fiscal year 1992. ProPAC has been considering many aspects of this complex issue and has put aside its previous recommendations. The Commission has not made a recommendation in this report. Instead, ProPAC will evaluate and comment on the Secretary's proposal when it is available, and will then recommend changes or an alternative approach, if warranted.

Updating and Adjusting Payments to PPS-Excluded Hospitals and District-Part Units—The Commission recommends an average update of market basket minus 0.7 percentage points. Based on current HCFA projections, the recommended update is 4.2 percent. This update is determined by the 4.9 percent projected point increase in the HCFA market basket, a 0.2 percentage point increase to better reflect increases in hospital labor costs, a -1.0 percent point forecast error correction factor for fiscal year 1990, and a 0.1 percentage point scientific and technological advancement allowance. No specific adjustment is made for savings from productivity improvements because the Medicare program already shares in these savings under the TEFRA payment system used for these providers.

ProPAC also recommends that higher updates be given to PPS-excluded providers that entered the program before fiscal year 1989. The updates should depend on the base year used to calculate each provider's target rate. The amount of the updates should reflect differences between the actual updates these providers received in each year and the actual market basket for those years.

Hospital Outpatient Payment—As required by Congress, the Commission issued a report on outpatient payment reform in July 1990. That report provided background on hospital outpatient services and discussed the factors the Commission will consider in evaluating future payment reforms. Another report, due

in March 1992, will present specific recommendations.

Four recommendations are being made in this report as a result of the Commission's ongoing activities. First, the Commission believes that prospective payment for outpatient facility services should be implemented. Initially, these reforms will focus on hospitals, but ultimately they should address both hospital and non-hospital providers. Second, payment reforms should be consistent with physician payment reform and should not inappropriately favor one site of care over another. The same payment method should be used for all providers, although payment rates should be adjusted to reflect justifiable cost differences. Third, a method for periodically collecting cost data from non-hospital providers is recommended. This method should not, and need not be unnecessarily burdensome. Further, uniform coding and billing requirements should be required of all providers of outpatient care. Fourth, outpatient services furnished by hospitals should be incorporated in the Medicare physician Volume Performance Standards (VPSs) if they are included in the VPSs when furnished by non-hospital providers.

Uncompensated Care—The Commission believes that Congress should develop solutions to the problem of the uninsured. The Commission also recognizes that hospitals face a growing financial burden because many Americans lack adequate health insurance.

Recent work on uncompensated care by ProPAC indicates that during the 1980s, uncompensated care costs rose faster than inflation, while increases in government subsidies for these costs have not kept pace. In addition, the burden of these costs is becoming less concentrated in the types of hospitals that historically have provided a large share of uncompensated care. Uncompensated care costs as a proportion of total costs are as high for rural hospitals as for urban hospitals, after accounting for state and local government subsidies. Finally, it appears there is a poor relationship between uncompensated care costs and the distribution of IME and DSH payments. ProPAC intends to continue its analysis of the impact of payments from Medicare, Medicaid, and other payers and of uncompensated care cost on hospitals' financial condition.

Four appendixes provide additional information. Appendix A includes background material and analysis. Appendix B lists ProPAC's technical reports, which include more detailed descriptions of intramural and extramural analyses that support the Commission's recommendations. Appendix C highlights the background of each Commissioner and describes ProPAC's operations. Appendix D reports changes in DRG relative weights from fiscal year 1990 to fiscal year 1991.

RECOMMENDATIONS FOR FISCAL YEAR 1992

Updating PPS Payments

Recommendation 1: Amount of the Update Factor for PPS Hospitals

For fiscal year 1992, the PPS standardized payment amounts should be updated to account for the following factors:

- The projected increase in the HCFA PPS market basket, currently estimated at 4.8 percent;
- An adjustment of 0.2 percentage points, to reflect the difference between the ProPAC and HCFA market baskets;
- A correction for substantial error in the fiscal year 1990 market basket forecast, currently estimated at -1.0 percentage points;
- A discretionary adjustment factor of 0.2 percentage points; and
- A net -1.0 percentage point adjustment for case-mix change.

Further, an additional positive adjustment of 1.0 percentage points for rural hospitals should be made to reflect the second year of phasing out the differential in the standardized amounts between rural and other urban hospitals. Through differential updates, the rural standardized amount should be increased until it equals the other urban standardized amount in fiscal year 1995.

Recommendation 2: Data for Evaluating Case-Mix Index Change

The Secretary should collect the data necessary to apportion case-mix index change into its real and upcoding components.

Rural Hospital Payment

Since the implementation of PPS, numerous changes have been made in Medicare policies to reflect the changing pattern of rural health care delivery. While rural and urban hospitals currently exhibit similar overall financial performance, some rural hospitals continue to fare poorly under PPS. Several improvements in PPS policies have been enacted recently, and it is too soon to evaluate their effects. Other changes, such as eliminating the differential in the standardized amounts, are being phased in. Current PPS policies may not be appropriate for some rural hospitals, and the Commission is continuing its analyses of specific problems these hospitals face. A congressionally requested report, to be issued in mid-1991, will contain additional findings and recommendations. These recommendations will suggest policy reforms more tailored to the specific problems faced by some rural hospitals.

Teaching and Disproportionate Share Hospital Payment

Recommendation 3: The Indirect Medical Education Adjustment

The Commission recommends that the indirect medical education adjustment to PPS payments be reduced from its current level of 7.7 percent to 7.0 percent for fiscal year 1992. This reduction should be implemented in a budget-neutral fashion, with the anticipated decrease in indirect medical education

payments returned to all hospitals through corresponding increases in the standardized payment amounts.

The Disproportionate Share Adjustment

The Commission believes it is important to examine the structure of the disproportionate share adjustment and the interaction between this adjustment and other elements of the health care financing system, both within and beyond the Medicare program. This examination will focus on developing changes that will better target the payments made under the disproportionate share adjustment to achieve its policy objectives.

Other Adjustments to PPS

Recommendation 4: Improving the Area Wage Index

The Secretary should collect data on employee compensation and paid hours of employment for hospital workers by occupational category. Once these data become available, the Secretary should implement an adjustment in the area wage index. This adjustment would correct for the inappropriate inclusion in the wage index of geographic differences in the mix of occupations employed.

Recommendation 5: Adjusting Payments for Acute Myocardial Infarction Cases

A one-time adjustment should be made in the DRG recalibration process used in calculating revised DRG weights for fiscal year 1992. The adjustment would be designed to prevent continuation of errors in payment caused by changes in coding and DRG assignments for patients with a diagnosis of myocardial infarction.

Capital Payment

The Commission believes that Medicare capital payment policy should recognize hospitals' prior capital expenditures and related financing costs, while encouraging appropriate and efficient investments. Further, the policy should be designed to limit increases in aggregate program expenditures for inpatient hospital care. ProPAC will evaluate and comment on the forthcoming capital payment proposal from the Secretary of Health and Human Services. It will recommend modifications to the proposal, as appropriate, or an alternative payment approach, if warranted.

Updating and Adjusting Payments to PPS—Excluded Hospitals and Distinct-Part Units

Recommendation 6: Amount of the Update Factor for PPS-Excluded Hospitals and Distinct-Part Units

For fiscal year 1992, the target rate of increase for PPS-excluded hospitals and distinct-part units should be updated to account for the following factors:

- The projected increase in the HCFA PPS-excluded market basket, currently estimated at 4.9 percent;
- An adjustment to the market basket of 0.2 percentage points, to reflect the difference between the ProPAC and HCFA market baskets;
- A correction for substantial error in the fiscal year 1990 market basket forecast, currently estimated at -1.0 percentage points; and

- An allowance for scientific and technological advancement of 0.1 percentage points.

In addition, a positive allowance should be given to TEFRA providers that entered the program before fiscal year 1989, depending on the base year used to calculate their target rates. This allowance reflects the difference between the actual updates given in earlier years and the market basket for that year.

Hospital Outpatient Payment

Recommendation 7: Outpatient Payment Reform

The Commission believes that a prospective payment system for outpatient services should be developed. Outpatient facility payment reform should ultimately include all providers of outpatient services (such as hospitals, physicians' offices, and free-standing ambulatory surgery centers). As required by Congress, however, the Commission recognizes that outpatient payment reform will focus initially on the hospital outpatient setting.

Recommendation 8: Outpatient Facility and Physician Payment Reform

Outpatient payment reform for facility services should have incentives that are consistent with physician payment reform. Medicare financial incentives should not lead physicians or beneficiaries to inappropriately select one site of care over another.

Recommendation 9: Data Collection and Coding Requirements

Uniform coding and billing requirements should be implemented for all providers of outpatient care. These requirements should apply to the hospital outpatient setting, physicians' offices, and free-standing ambulatory care providers. In addition, a mechanism for periodic collection of procedure-specific cost data in free-standing settings (including physicians' offices and ambulatory surgery centers) should be implemented.

Recommendation 10: Medicare Volume Performance Standards

Services provided in the hospital outpatient setting should be included in the Medicare physician Volume Performance Standards (VPSs). Certain services (such as laboratory tests and therapy services) are currently included in the VPSs when provided in free-standing settings. Other services (including ambulatory surgery and durable medical equipment) are excluded. The Commission believes that hospital-provided services should also be incorporated in the VPSs to the extent that these services are included when provided in other settings.

Uncompensated Care

Many Americans lack health insurance or other means to cover the cost of medical care furnished by hospitals, physicians and other providers. PrePAC is concerned about the effects of this problem, including the increasing financial burden faced by hospitals that treat the uninsured. The amount of uncompensated care hospitals provide has increased during the 1980s, and the number and variety of hospitals affected

significantly by the cost of unpaid care have grown. The Commission believes that Congress should continue to consider methods to reduce the size of the uninsured population. Congress should also consider methods to assist hospitals directly with the uncompensated care problem.

Chapter 1—Medicare Prospective Payment: Assessing Potential Refinements

Medicare's prospective payment system (PPS) is in its eighth year. When it was implemented in 1983, PPS represented a dramatic change in the way that hospitals were paid under Medicare. Rather than reimbursing each hospital for actual costs incurred, as was the case during Medicare's first 16 years, a prospectively set payment is now made for a specified product—the hospital discharge. This change was intended to provide incentives for hospitals to operate more efficiently, thereby controlling the cost of treating their patients and reducing the growth rate of Medicare expenditures.

PPS has had a major effect on hospital payments in two ways. First, because the level of per-case payments is set through the annual process of updating the payment rates, Medicare has a degree of control over total Medicare inpatient hospital spending. Second, the payment to each hospital for each case is based on the average cost of treating that type of case at that type of hospital, rather than each hospital's actual costs. This significantly affects the

distribution of Medicare payments across hospitals and geographic areas.

Since the beginning of PPS, the Prospective Payment Assessment Commission (ProPAC) has examined and evaluated factors that determine Medicare payment. Each year, the Commission recommends updates to the PPS rates, as well as changes in policies that affect the distribution of payments. The annual update recommendation is intended to recognize the impact on hospitals' costs of factors that are beyond their control, while maintaining financial incentives for productivity growth in the industry. Other policy recommendations are designed to improve payment equity by adjusting for external factors that contribute to variations in costs among hospitals.

In its March 1990 report, the Commission described the overall design of PPS, its goals, and the incentives that it provides. In this year's report, evidence is presented of the changes in Medicare spending and hospital costs that coincided with the implementation of PPS. The impact of recent PPS policy changes on the distribution of hospital payments and financial status is also examined. These effects are then related to the structure of the payment system, highlighting some recent refinements and others that are under consideration. The focus is on the effects of potential changes in PPS payment policy and how they may interact.

The discussion in this chapter provides a context for consideration of the Commission's recommendations on changes to PPS for fiscal year 1992. It is important to recognize the interactions between the various components of the payment system, both in assessing the impact of PPS and in evaluating changes that may be proposed in the near future. This approach also applies to the evaluation of options for prospective payment in other institutional settings, as the Commission proceeds to address a broader mandate.

IMPACT ON MEDICARE SPENDING AND HOSPITAL COSTS

The growth of aggregate Medicare inpatient hospital payments slowed dramatically with the implementation of PPS. When PPS began, the rate of increase in Medicare inpatient payments had been in double-digits for 10 consecutive years. During the six years before prospective payment, these payments grew at an annual rate of 17 percent (see Table 1-1). Over the first six years of PPS, the annual growth rate fell to 6.1 percent.

Total Medicare payments also increased more slowly than before, despite the continued rapid growth of other Medicare Part A payments and Medicare Part B payments. In the six years prior to PPS implementation, total Medicare payments increased at an annual rate of 17.8 percent. For the first six years after PPS took effect, this rate dropped to 9.2 percent.

TABLE 1-1.—ESTIMATED BENEFIT PAYMENTS, BY TYPE OF SERVICE

Fiscal year	Part A				Part B total ^a		Total Medicare	
	Inpatient hospital		Other services ^a		Payments (in billions)	Percent change	Payments (in billions)	Percent change
	Payments (in billions)	Percent change	Payments (in billions)	Percent change				
1977	\$14,429	—	\$746	—	\$8,133	—	\$21,308	—
1978	16,719	15.9	830	11.3	7,254	18.3	24,803	16.4
1979	19,176	14.7	956	15.2	8,613	18.7	28,745	15.9
1980	23,129	20.6	1,139	19.1	10,467	21.5	34,735	20.8
1981	27,706	19.8	1,434	25.9	12,555	19.9	41,695	20.0
1982	32,554	17.5	1,970	37.4	14,809	18.0	49,333	18.3
1983	36,950	13.5	2,422	22.9	17,670	18.3	57,042	15.6
1984	40,385	9.3	2,788	15.1	19,882	12.5	63,055	10.5
1985	43,618	8.0	3,027	8.6	21,985	10.6	68,630	8.8
1986	45,280	3.8	3,166	4.6	25,499	16.0	73,945	7.7
1987	46,579	2.9	3,300	4.2	29,693	16.4	79,572	7.6
1988	49,570	6.4	3,789	14.8	33,725	13.6	87,084	9.4
1989	52,642	6.2	* 6,217	* 64.1	37,745	11.9	96,604	10.9
Annual rate of change:								
1977-1983		17.0		21.7		19.3		17.8
1983-1989		6.1		17.0		13.5		9.2

Note: Payments reported in this table are incurred expenditures, rather than outlays.

^a Includes skilled nursing, home health, end-stage renal disease, and hospice benefits.

^b Includes outpatient hospital, physician, independent lab, and other benefits.

^c Part A other services payments for fiscal year 1989 include payments for services added by the Medicare Catastrophic Coverage Act of 1988.

SOURCE: Health Care Financing Administration, Office of the Actuary.

The rate of increase in overall hospital costs per case also slowed temporarily with the implementation of PPS. In 1983, total expense per adjusted admission at community hospitals rose by 10.2 percent.² For the tenth consecutive year, hospital costs had grown at double-digit rates. In 1984, the increase in expenses per adjusted admission fell to 7.5 percent. This rate has subsequently stayed at around 10 percent. The general rate

of inflation, however, is lower than it was immediately prior to PPS. As a result, hospital costs have continued to increase faster than the prices of the resources hospitals use in providing inpatient care.

Health policy makers continue to be concerned about the rate of increase in hospital costs. With costs rising faster than Medicare payments, deterioration in hospital financial status may threaten Medicare

enrollees' access to inpatient care and the quality of that care. In addition, the resulting pressure on hospitals to produce more revenue from other sources may have adverse consequences for other third-party payers and their enrollees.

CHANGES IN PPS

The structure of PPS was intended to incorporate incentives for hospitals to

increase efficiency while maintaining access and quality of care. Although much of the basic structure of PPS has been retained, a number of changes have been made since the system was implemented. These changes have substantially affected the level and distribution of payments. While they generally have been intended to mitigate perceived inequities in the existing structure of PPS, some of these changes have also altered the incentives that were provided by the system as it originally was designed.

PPS Payment Policy Changes

In its June 1990 report, *Medicare Prospective Payment and the American Health Care System*, ProPAC examined the cumulative effects of the payment policy changes adopted from the inception of PPS through fiscal year 1990.⁸ These changes include reductions in the indirect medical education (IME) adjustment for teaching hospitals. In fiscal year 1986, an adjustment was added for hospitals that treat a disproportionate share of indigent patients, and the size of this disproportionate share (DSH) adjustment has since been increased considerably.

TABLE 1-2—EFFECTS OF PPS PAYMENT POLICY CHANGES ON PER-CASE PPS PAYMENT RATES, 1984-1990

Hospital group	Effect of payment policy changes (percent)	Effect of case-mix index increases* (percent)	Total effect (percent)
All hospitals.....	18.3	19.7	41.6
Urban.....	16.5	20.3	40.1
Rural.....	29.2	15.1	48.6
Major teaching.....	17.1	20.4	41.0
Other teaching.....	14.4	20.2	37.5
Non-teaching.....	21.6	18.2	43.8
Disproportionate share:			
Large urban.....	15.8	19.2	38.0
Other urban.....	23.9	21.1	50.0
Rural.....	36.1	15.5	57.2
Non-disproportionate share.....	16.8	19.2	39.2

Note: Figures are not actual changes in PPS payments. They are meant to isolate the effects of

changes in PPS payment policy on PPS payment rates, holding all other factors constant. Hospitals in Maryland and New Jersey are excluded; hospitals in New York and Massachusetts are included beginning in fiscal year 1988.

* The effect of case mix change in 1990 for each hospital group is based on the overall estimated change for that year.

SOURCE: ProPAC estimates based on ProPAC PPS payment model and annual MedPAR data from the Health Care Financing Administration.

Beginning in fiscal year 1988, payment amounts for hospitals in large urban areas, other urban areas, and rural areas have been updated at different rates.⁹ Changes have also been made in the PPS wage index; the patient categories (diagnosis-related groups, or DRGs) used to group cases for payment purposes; and the method of calculating the DRG relative weights. The rules for paying hospitals for cases with exceptionally long stays or high costs (outlier cases) have also been changed, as has the method of financing outlier payments.⁸

The PPS update factor and other payment policy changes made between fiscal years 1984 and 1990 increased per-case PPS payment rates by a cumulative 18.3 percent (see Table 1-2). This number reflects only the effects of payment policy changes. It does not reflect other changes that may affect the level of payments, including changes in the mix of patients across DRGs (see the discussion of this issue below).

Policy changes have had a considerable effect on the distribution of PPS payment rates. Rural hospitals have benefited from these changes, with a cumulative increase in their payment rates of 29.2 percent—almost twice that for urban hospitals. Because of a substantial decrease in the IME adjustment, policy changes have not increased payment rates for teaching hospitals as much as for non-teaching hospitals. Disproportionate share hospitals in other urban and rural areas have experienced large increases in their payment rates, primarily due to changes in the DSH adjustment enacted in the Omnibus Budget Reconciliation Act (OBRA) of 1989.

The Commission has also noted that, despite the intensity of the debate over the PPS update factor and other payment policy changes, the most important influence on the overall level of PPS payments has been the increase in the Medicare case-mix index (CMI). The CMI measures the mix of cases

across DRGs. Any increase in the CMI results in an equal percentage increase in PPS payments.

ProPAC's estimate of the cumulative change in the CMI between fiscal years 1984 and 1990 is 19.7 percent.⁸ This indicates that CMI changes have increased PPS payments by more than the PPS rate updates and other PPS policy changes combined. However, because payment increases due to CMI change have been considered in determining the annual PPS update factors, there is some relationship between the two effects.

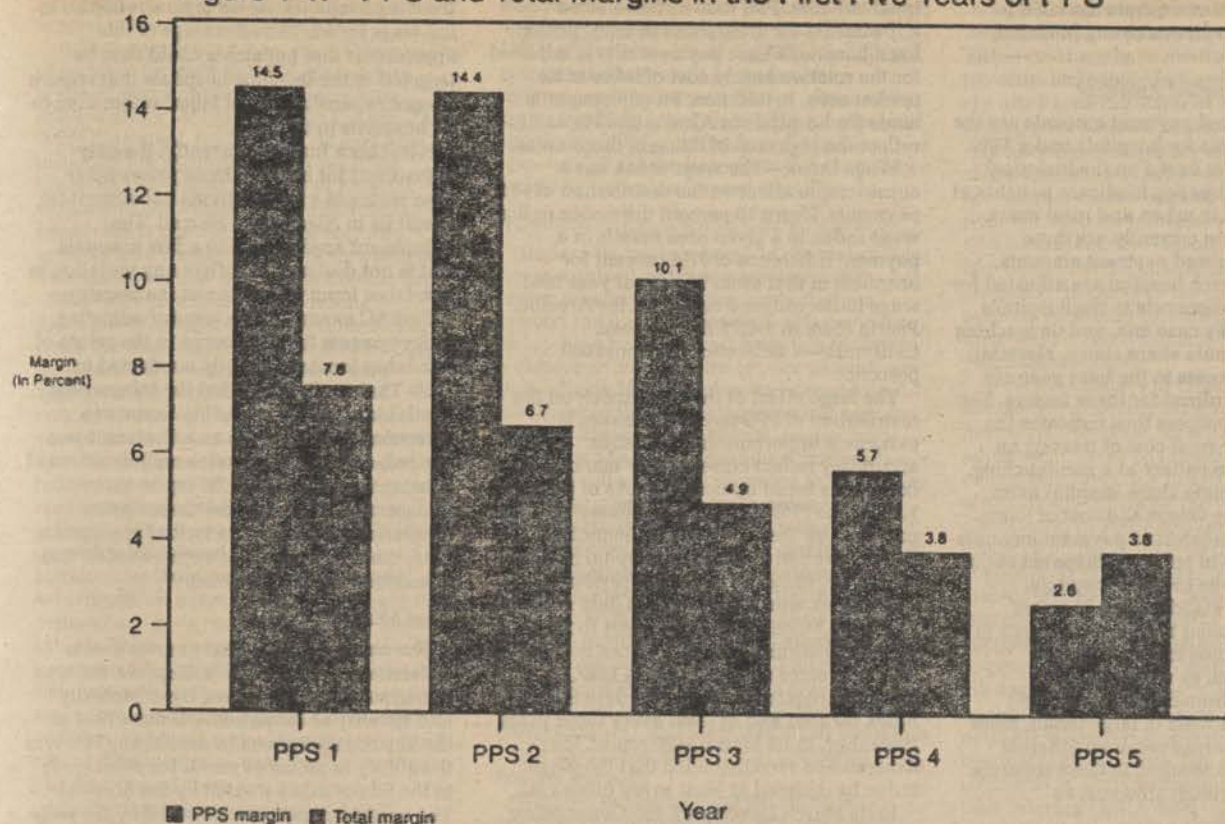
Changes in the CMI have also affected the distribution of PPS payments, in some instances offsetting the intended effects of policy decisions. For example, CMI change has mitigated the effectiveness of payment rule changes aimed at narrowing the gap between payments to urban and rural hospitals.

Hospital Financial Status

The PPS margin compares the PPS payments (exclusive of pass-throughs) that hospitals receive with their Medicare operating costs. The aggregate PPS margin for all hospitals exceeded 14 percent in each of the first two years of PPS (see Figure 1-1). This reflects the large increases in PPS payments per discharge in those years while, at least in the first year, hospitals were generally successful in holding down the increase in operating costs. Since the first two years, however, the continued growth in costs, combined with much smaller increases in payments, has resulted in a sharp decline in PPS margins. By the fifth year, the aggregate PPS margin was 2.6 percent. For the seventh year, ProPAC has estimated an aggregate PPS margin of -2.5 percent.

As the overall level of PPS margins falls, the distribution of these margins becomes increasingly important. In the first year, for instance, when PPS margins were generally high, there was less concern about hospitals with relatively low PPS margins. There were few hospitals for which PPS payments did not cover operating costs. By the fifth year, however, a majority of hospitals had negative PPS margins. By the seventh year, a PPS margin only slightly below average may have meant serious financial difficulty for the hospital.

Figure 1-1. PPS and Total Margins in the First Five Years of PPS



SOURCE: Medicare Cost Report data from the Health Care Financing Administration.

The total margin is a primary indicator of the hospital's overall financial status. It compares hospital revenues and expenses for all inpatient and outpatient care and for non-patient care activities. Patient care includes not only the treatment of Medicare and Medicaid patients, but also the treatment of patients covered by private insurance and those who are uninsured. Non-patient care includes all other hospital activities, such as gift shops and parking lots.

As was the case for the PPS margin, the aggregate total margin for all hospitals declined over the first five years of PPS. This decrease, however, was not nearly as steep as that in the PPS margin. The total margin, which was 7.6 percent in the first PPS year, had fallen to 3.8 percent by the fifth year—a decrease of 50 percent. However, the decline in the PPS margin over the same period was 82 percent. In the fifth year, the total margin exceeded the PPS margin for the first time since PPS began.

More recent data from the American Hospital Association (AHA) indicate that the decline in total margins has leveled off. Total margins remain comparable to what they were immediately before PPS. According to the AHA's National Hospital Panel Survey, the average total margin for 1989 was 5.0 percent. This compares with 4.8 percent in

1988, 5.1 percent in 1983, and 4.6 percent in 1980.⁷

In fact, the total margin is currently considerably higher than it was at any time during the 1970s. However, as with PPS margins, the dispersion between the highest and lowest total margins has become wider over time, indicating that hospitals may face greater financial risk now than they did before PPS.

The much steeper decline in PPS margins than in total margins over the first five years of PPS indicates that other sources of revenue have been more stable than Medicare over this period. However, the relatively low recent annual updates in the PPS payment rates have reflected, in part, the response of policy makers to the initially very high PPS margins.

In a sense, the effects of PPS payment policy are just now becoming evident. Several studies have found that hospitals that face more financial pressure under PPS have experienced slower growth in operating costs.⁸ If these findings can be applied to the current situation, there may be increasing evidence of hospitals' responses to PPS incentives as more PPS margins fall below zero. On the other hand, hospitals with high total margins may be able to avoid the pressure to constrain costs. In any event, conclusions about the effectiveness of PPS

incentives may be premature until more data on hospitals' current behavior become available.

COMPONENTS OF PPS PAYMENT

The structure of PPS determines the distribution of payments. It thus is key to analyzing the incentives that the system provides and the behavioral effects produced by these incentives. Therefore, the components of PPS should be reviewed regularly to identify any changes that may be necessary to meet the system's objectives.

PPS consists primarily of a base payment rate (the standardized payment amount) and a number of adjustments. These adjustments are generally intended to account for factors that affect the cost of treating Medicare patients but are regarded as being beyond the control of the individual hospital.

As discussed above, a number of changes have been made in the way that payments are made under PPS. These changes involve modifications or additions to one or more of the components of the payment system. A number of additional changes have been or are being considered that would further modify the structure of PPS. The following discussion reviews the current structure of PPS and describes some potential changes to the system. This discussion is intended to

highlight the interdependence of the system's components and demonstrate the need to take a broad view in evaluating potential changes.

Standardized Payment Amounts

The standardized payment amounts are the base payment rates for hospitals under PPS. Initially, they were based on the historical average costs of treating Medicare patients at hospitals located in urban and rural areas, respectively. There currently are three separate standardized payment amounts.

Payments for each hospital are adjusted for relative hourly labor costs in the hospital's area, the hospital's case mix, and its teaching and disproportionate share status. Hospital-specific average costs in the base year are, therefore, standardized for these factors. The standardization process thus indicates the average urban or rural cost of treating an average Medicare patient at a non-teaching, non-disproportionate share hospital in an area with average wages and cost of living. The resulting standardized payment amounts are then reduced to reflect anticipated outlier payments for urban or rural hospitals.

Each year, the standardized payment amounts are updated to reflect increases in the cost of providing inpatient care to Medicare patients, as well as other considerations. From fiscal years 1988 through 1990, hospitals in large urban, other urban, and rural areas received different updates. This has resulted in three separate standardized payment amounts, as mentioned above.

In OBRA 1989, Congress required the Secretary of Health and Human Services (HHS) to develop a legislative proposal for the implementation of a single base payment rate under PPS. The Commission, in its March 1990 report, recommended that the differential between the standardized payment amounts for rural hospitals and hospitals in other urban areas be eliminated over time. In OBRA 1990, Congress set the PPS updates so that the differential between the rural and other urban standardized payment amounts would be eliminated by fiscal year 1995.

This change will significantly affect the distribution of PPS payments. In fiscal year 1990, the standardized payment amounts for rural hospitals was 7 percent lower than for other urban hospitals. The difference in average PPS payments for discharge, however, was much greater than that, due to the effect of other PPS payment factors. Among these factors are the CMI, the wage index, and the IME and DSH adjustments, which are all greater for urban than for rural hospitals.

The elimination of the differential in the standardized payment amounts raises the issue of whether the PPS adjustments should also be modified. Additional adjustment may be required to adequately reflect differences in Medicare costs that are currently captured by the differentials between the standardized payment amounts for large urban, other urban, and rural hospitals.

Input Prices

Hospitals in different geographic areas may face different prices for labor, other services,

and supplies that they use in providing inpatient care. PPS thus includes some adjustments for differences in input prices. Each hospital's base payment rate is adjusted for the relative hourly cost of labor in its market area. In addition, an adjustment is made for hospitals in Alaska and Hawaii to reflect the high cost of living in those areas.

Wage Index.—The wage index has a considerable effect on the distribution of PPS payments. Every 10 percent difference in the wage index in a given area results in a payment difference of 7.14 percent for hospitals in that area. The fiscal year 1991 wage index ranges from 0.3961 for Arecibo, Puerto Rico, to 1.4677 for San Jose, California—a difference of almost 300 percent.

The large effect of the wage index on the distribution of PPS payments makes it extremely important that the index accurately reflect current labor market conditions faced by hospitals. As of January 1, 1991, the PPS wage index is based on data collected by the Health Care Financing Administration (HCFA) on hospital hourly labor compensation for 1988. Previously, the wage index was based on 1984 data collected by HCFA.⁹ The change from 1984 to 1988 data resulted in major differences in the wage index for some areas. In OBRA 1987, Congress required HCFA to update the wage index for 1991 and at least every three years thereafter. In its March 1989 report, the Commission recommended that the wage index be updated at least every other year.

In its March 1990 report, the Commission recommended that HCFA begin to collect data that would allow analysis of the adjustment of the area wage index for differences in occupational mix. This type of adjustment would reduce payments to hospitals in areas where apparently high labor costs are actually due to the use of more expensive types of labor.

The use of more expensive types of labor does not reflect higher input prices, but rather the staffing decisions made by hospitals in each area. Consequently, hospitals in some areas are paid for decisions that are primarily affected by local practice patterns which PPS payment is not intended to reflect.

Due to a lack of nationwide data on occupational mix differences across areas, definitive findings on the effects of an occupational mix adjustment are not available. However, ProPAC has conducted analyses of this issue, using both a national sample of hospital wage data, and hospital-specific data from California to estimate the effects on hospitals in that state. This provided the basis for the Commission's recommendation on this issue in Chapter 2, and will be described in more detail in a technical report to be released this spring.

The correlation of occupational mix with other payment factors (such as case mix and teaching status) means that implementation of an occupational mix adjustment could affect the appropriate levels of these other factors. Teaching hospitals, for example, tend to employ a more skilled mix of labor. An occupational mix adjustment would presumably reduce payments to all hospitals in areas with high concentrations of teaching hospitals. The IME adjustment could then be

used to account for the higher labor costs of teaching hospitals, which is now reflected in the wage index. The advantage of this approach is that payments could then be targeted to the teaching hospitals that require a more expensive mix of labor, rather than to all hospitals in the area.

Non-Labor Index.—Currently, the only adjustment for hospital input prices other than wages is a cost-of-living adjustment for hospitals in Alaska and Hawaii. The adjustment applies only to a few hospitals and is not designed to reflect any variation in non-labor input prices across the country.

ProPAC examined the issue of adjusting PPS payments for differences in the prices of non-labor inputs in a study conducted in 1989. That study found that the information available at the time was inadequate to determine whether such an adjustment was needed, although there were no indications of substantial variation. In its report to Congress on this issue, the Commission concluded that, given the lack of appropriate data, the development of such an index was infeasible for the time being.¹⁰

Case Mix

The cost of inpatient care varies due to differences in the patient's diagnosis, the type of treatment provided, and the complexity and severity of the patient's illness. One of the key considerations in developing PPS was the ability to adjust payment for differences in the mix of cases treated by the hospital. The base payment rate, adjusted by the wage index and the cost-of-living adjustment, is multiplied by the DRG relative weight for each Medicare case. The relative weight reflects the expected costliness of treating cases in the DRG to which each patient is assigned.

As described above, the increase in the CMI—which is the average relative weight for all PPS discharges—has been the largest single factor in determining the rate of increase in PPS payments over time. The CMI also accounts for much of the difference in payments between hospital groups. For instance, the aggregate CMI for urban hospitals in fiscal year 1988 was 1.329, compared with 1.140 for rural hospitals. The difference in the CMI thus accounted for a 14.2 percent difference in payments—more than the difference between the urban and rural standardized payment amounts in that year.

The effect of case mix on PPS payments is determined by three factors: the definitions of the DRGs, coding practices and their influence on the assignments of cases among DRGs, and the calculation of the DRG weights.

DRG Definitions.—In its March 1990 report, the Commission urged HCFA to continue its work on the development and assessment of improvements in the measurement of hospital case mix and resource use. Both HCFA and ProPAC have been analyzing potential refinements to the current DRGs. These efforts have resulted in the addition of several new DRGs in fiscal year 1991. Further refinements to the DRGs, such as the incorporation of more of the revisions

developed by Yale University in a HCFA-funded project, are being evaluated.

As improvements are made in the grouping of patients for payment, the appropriate levels of many of the adjustments now applied under PPS are likely to change. The IME adjustment, for instance, is partially based on the assumption that teaching hospitals treat more severely ill patients within any DRG than do other hospitals. Improvements in the ability to measure severity may reduce the extent to which such differences require separate compensation.

The definition, incidence, and the appropriate method of payment for outlier cases are also likely to be affected by DRG refinement. If cases are grouped more appropriately according to illness and resource intensity, fewer cases may be exceptional relative to the group to which they are assigned. In any event, a major refinement of the DRGs is likely to require a reexamination of the outlier payment policy.

Coding Practices—The CMI may change over time for several reasons. Patients admitted for inpatient care may be more severely ill, on average, as less severely ill patients are more commonly treated in other settings. Inpatient treatment protocols may become more complex, as physicians and hospitals respond to technological change and improvements in clinical knowledge. In addition, hospitals may refine their medical record documentation and coding practices. The first two of these reasons are related to patient resources requirements; their combined effect is commonly referred to as real CMI change. The third, however, is not related to the costliness of treatment; it is commonly referred to as upcoding.

The Commission believes that the level of PPS payments should reflect changes in patient care resource requirements, but not upcoding. In its annual recommendation on the update to the PPS rates, ProPAC includes an estimate of real CMI change during the previous year. The PPS update recommendation also accounts for increases in patient complexity within DRGs, which are not reflected in CMI changes. The resulting update removes the net effect of upcoding from PPS payments. The Commission's case-mix adjustment to the recommended PPS update for fiscal year 1992 is described in Chapter 2.

Changes in the CMI—including those due to upcoding—also may affect the distribution of PPS payments. At this time, however, it is not possible to measure the effect of upcoding on the CMI for different hospitals or hospital groups.

Calculation of the DRG Weights—The DRG weights are intended to reflect the relative costliness of treating each type of patient. These weights are based on the average total charge for patients in each DRG, standardized for the PPS payment adjustments.

In its March 1988 report, the Commission recommended that the DRG weights be based on the estimated average costs of patients in each DRG, rather than on charges. Charge-based weights reflect the pricing behavior of hospitals as well as the resources required by the patients they treat, and thus may bias the distribution of PPS payments. ProPAC's

analysis of the difference between cost-based and charge-based weights indicated that, although the two sets of weights are highly correlated, they result in systematic differences in payments. Large, urban, and major teaching hospitals are paid more—and small, rural, and non-teaching hospitals less—under charge-based weights than they would be under cost-based weights.

Adjustments for Hospital Characteristics

Under PPS, certain hospital characteristics are recognized as being associated with higher inpatient operating costs that are beyond the hospital's control. PPS payments to teaching hospitals and hospitals that treat a disproportionate share of poor patients are thus adjusted by formulas that depend on measures of their teaching intensity and share of low-income patients, respectively.

Indirect Medical Education Adjustment—The IME adjustment is intended to recognize the higher costs faced by teaching hospitals in the treatment of Medicare patients. These costs have been attributed to greater severity of illness among patients in teaching hospitals, even within each DRG; greater intensity of services provided to patients in teaching hospitals; and higher staffing concentrations and richer staff mixes. In addition, the poor overall financial performance of major teaching hospitals as a group indicates that their continued operation might be endangered without continued Federal support.

The IME adjustment accounts for an estimated 5.4 percent of all PPS payments under fiscal year 1991 payment rules. However, because these payments are concentrated among relatively few hospitals—59 percent of IME payments are received by only 4 percent of all PPS hospitals—they substantially influence the overall distribution of PPS payments. For instance, while urban hospitals account for 78 percent of all PPS discharges, they receive 98 percent of all IME payments. IME payments have a strong effect on the financial status of teaching hospitals. In the fifth year of PPS, major teaching hospitals had an aggregate PPS margin of 15.1 percent, compared with -1.7 percent for non-teaching hospitals. Despite this differential in PPS margins, the aggregate total margin for non-teaching hospitals (3.9 percent) was much higher than for major teaching hospitals (2.0 percent).

For the past several years, ProPAC has analyzed the relationship between teaching intensity and Medicare operating costs per discharge. On the basis of these analyses and other considerations, the Commission annually has made a recommendation on the IME adjustment. These recommendations generally have taken into account the estimated relationship between teaching intensity and Medicare operating costs. However, the Commission has also expressed concern about the poor overall financial status of major teaching hospitals and the potential effect on Medicare enrollees' access to high-quality health care. The Commission's recommendation on the IME adjustment for fiscal year 1992 is in Chapter 2, and the most recent ProPAC analysis of this issue is described in Appendix A.

Disproportionate Share Adjustment—The DSH adjustment recognizes the higher costs

faced by hospitals that treat a disproportionate share of poor patients. These costs apply to the treatment of all their patients, including Medicare patients. They are attributed to greater severity of illness among poor patients in any DRG and greater difficulty in arranging for appropriate post-discharge care for these patients. There also are indirect costs—such as those associated with the need for bilingual staff and additional security—associated with operating in areas accessible to the poor. Moreover, because of the broader social purpose served by this group of hospitals, their weak overall financial performance is of particular concern.

With the changes in OBRA 1990, the DSH adjustment accounts for 4.1 percent of all PPS payments. However, as with the IME adjustment, these payments are concentrated among relatively few hospitals. As such, they also strongly influence the overall distribution of PPS payments and the financial status of disproportionate share hospitals. In the fifth year of PPS, disproportionate share hospitals had an aggregate PPS margin of 6.4 percent, compared with -0.2 percent for non-disproportionate share hospitals. However, the aggregate total margin was higher for non-disproportionate share hospitals (4.4 percent) than for disproportionate share hospitals (3.1 percent). The impact of DSH payments is likely to continue to grow over time because OBRA 1990 contains a provision that will increase the DSH adjustment in fiscal years 1994 and 1995.

In the past year, ProPAC and others have been reexamining the relationship between disproportionate share status and Medicare operating costs. In addition, other indicators of hospitals' care for the poor—such as the distribution of uncompensated care costs—are being examined. Moreover, there is considerable overlap between the hospitals that receive the IME and DSH adjustments. Disproportionate share hospitals receive almost two-thirds of all IME payments, while teaching hospitals receive more than two-thirds of all DSH payments.

These activities may lead to the development of potential modifications to the current adjustments under PPS. The Commission believes that these changes must be evaluated in relation to both their direct effects on the distribution of PPS payments and their interaction with the older factors that determine PPS payment and hospital financial condition.

Outlier Payment

The designers of PPS recognized that, regardless of the method used to categorize patients for payment, there would be some patients whose costs could not adequately be predicted by the payment system. Therefore, for exceptionally long or costly cases in each DRG, hospitals receive an additional outlier payment based on the length of stay or cost in excess of a preset threshold. These payments, however, are not designed to compensate hospitals for the full costs of treating these patients.

Outlier payments account for about 5 percent of all PPS payments. They are

financed by separate offsets to the urban and rural standardized payment amounts, so they probably do not affect the distribution of PPS payments as much as the IME and DSH adjustments do. However, they are concentrated among certain types of hospitals. For instance, teaching hospitals receive 66 percent of all outlier payments, compared with 53 percent of all PPS payments.

Any other refinement of the DRGs would be expected to have major effects on the definition, incidence, and method of payment for outliers. Further, any change in the distribution of outlier payments would, in turn, result in a change in the standardized amounts, since these amounts are adjusted for anticipated outlier payments for urban and rural hospitals. Moreover, since outlier payments are correlated with certain hospital characteristics (such as teaching status), changes in outlier payment may affect the corresponding payment adjustments.

IMPLICATIONS

In this chapter, the Commission has reviewed the structure of PPS and its effect on both aggregate PPS payments and the distribution of PPS payments across hospitals. The system's structure, and the interaction of its various components, raise several issues with important implications for the evaluation of PPS payment policy and potential changes to that policy.

Level of Payments

Both aggregate Medicare inpatient hospital payments and total Medicare payments have grown at much slower rates since the implementation of PPS. After a sharp decline in the rate of growth in the first year of PPS, total hospital costs have continued to grow faster than input prices—indicating that hospitals have not been as successful in holding down their costs as policy makers had anticipated. With costs also rising faster than Medicare payment rates, there is continued concern about the potential deterioration of hospital financial status.

From the beginning of PPS, it was recognized that the resulting financial pressure would require greater hospital efficiency to maintain access and quality. In the first few years, PPS payments were substantially higher than costs, diminishing the incentive for hospitals to reduce costs. Available evidence indicated no decline in either patient access or quality of care.

ProPAC estimates, however, that Medicare operating costs exceeded PPS payments by fiscal year 1989. Moreover, Congress has legislated PPS rate increases that are below the increase in input prices through fiscal year 1993. This indicates that hospitals may just be starting to feel substantial financial pressure from PPS—and that the lack of major access and quality problems in the early years may not be taken for granted in the future.

Despite the sharp decrease in PPS margins, there is evidence that overall hospital financial condition is stabilizing. Total margins, while lower than in the first few years of PPS, are as high now as at any time in the decade before PPS. This indicates that the threat of increasing numbers of hospital

closures and major service cutbacks may not be as great as might appear from looking only at Medicare payments.

However, the difference between PPS and total margins indicates that hospitals have relied on sources of revenue other than Medicare to cover their costs. This shift in revenue sources has put more pressure on other payers for hospital services. The consequence could be higher costs of insurance coverage for people under 65 years of age and greater difficulty for those without insurance coverage or with inadequate coverage to obtain the care they need.

Distribution of Payments

By severing the connection between Medicare hospital payments and the operating costs of the individual hospital, PPS has substantially changed the distribution of payments. PPS payments are considerably greater than Medicare operating costs for some hospitals and much less for others. Moreover, the variation in PPS margins is systematically related to certain hospital characteristics. To the extent that this observation indicates inequities in the payment system or the unequal abilities of different hospitals to respond to the system's incentives, it is the cause of some concern to the Commission.

There have been a number of changes in the payment rules since PPS began. Some of these changes have been attempts to fine-tune adjustments that were part of PPS from the beginning. Others have been intended to mitigate perceived inequities in the original design of the system. Together, they have had a significant effect on the distribution of payments across hospitals.

In addition, changes in the CMI have had a large effect on both the level and the distribution of PPS payments. The CMI for each hospital is determined by the hospital's mix of cases across DRGs, rather than by explicit policy decisions made by HCFA or Congress. As a result, the influence of CMI change is frequently overlooked or misinterpreted. In many instances, the effect of CMI change has negated or at least diminished the intended effects of PPS payment policy decisions.

The patterns of PPS and total margins are different across groups of hospitals, raising the issue of how to balance Medicare's potentially conflicting responsibilities. One responsibility is to compensate hospitals appropriately for the efficient provision of inpatient care to Medicare patients. The other is to maintain access to necessary services and the quality of those services. The maintenance of the IME and DSH adjustments above the levels indicated by analysis of Medicare costs alone reflects the recognition that both of these responsibilities are important.

Another increasingly evident fact is that, although some components of the payment system apply to groups of hospitals that share certain characteristics (like location or teaching status), financial performance within these groups varies considerably. The distribution of both PPS and total margins has become increasingly wider under PPS, which means there are greater differences between hospitals that do well and those that do poorly.

This trend is consistent with the desire to have the hospital bear more of the risk associated with treating Medicare patients. However, it also means that analyses based on average performance must be interpreted with caution. Both the average outcome and the distribution of outcomes must be considered in evaluating the impact of PPS.

Interdependence of PPS Components

The structure of the payment system is such that changes in one component tend to have effects on other components. Because of this interdependence, the evaluation of incremental changes must be considered in the context of their effects on the system as a whole.

The elimination of the differential between the standardized payment amounts for hospitals in rural and other urban areas illustrates this complex interaction. Rural hospitals have had lower PPS margins than urban hospitals in every year since PPS began. Despite several policy changes aimed at eliminating this disadvantage, the difference has persisted, at least through the fifth year of PPS.

One source of the gap between urban and rural hospitals' payments under PPS is the differential in their standardized payment amounts. This differential was incorporated into the system to recognize the historically higher costs incurred by urban hospitals. However, the system has apparently overcompensated for this difference. In the fifth year of PPS, rural hospitals were paid about 45 percent less per discharge than urban hospitals, yet their costs were only about 40 percent lower. In response to this situation, Congress included in OBRA 1990 a provision that, by fiscal year 1995, the standardized payment amount for rural hospitals would be increased to match that for other urban hospitals.

This action will certainly increase payments to rural hospitals compared with what they would have been. However, it will not make them equal to payments for urban hospitals. The wage index, the CMI, and the IME and DSH adjustments all have had the effect of increasing the share of payments to urban hospitals. Moreover, this effect has grown over the years.

This example shows that, while changes in one component of PPS may be intended to accomplish a given policy objective, other components may mitigate the intended effect. This illustration demonstrates the importance of assessing the interactive effects of the various components of the payment system so that policy objective are met.

CONCLUSIONS

This chapter has reviewed the structure of PPS and the interrelationships among its components. These interactions require that incremental changes in PPS payment policy not be evaluated in isolation from the rest of the system. Each of the components of PPS affects other components and is, in turn, affected by the others. Therefore, efforts to diagnose and correct perceived flaws in the system must be attempted with an eye toward their influence on the system as a whole. The Commission has taken this approach in developing the recommendations

in chapter 2. Any policy changes considered in the future should also be evaluated in this broader context.

Notes to Chapter 1

1. Other Medicare Part A payments include payments for skilled nursing, home health, end-stage renal disease, and hospice services. Medicare Part B payments primarily include payments for physician services, hospital outpatient services, and independent laboratory services.

2. Adjusted admissions is an indicator of the overall patient load of the hospital. It is a weighted sum of inpatient admissions and outpatient visits.

3. A similar analysis including fiscal year 1991 payment rules will be provided in the Commission's June 1991 report.

4. For payment purposes, large urban areas are metropolitan statistical areas with populations of one million or more, or New England Consolidated Metropolitan Areas with populations of 970,000 or more. Other urban areas are those not designated as large urban.

5. For the first four years, PPS payment rates were a blend of hospital-specific rates based on each hospital's costs in a base year-end Federal rates based on average standardized costs for urban and rural hospitals in each region and nationwide. Although the ProPAC analysis compares only the national rates, the establishment of a transition period could also be considered a policy decision with a distinct effect on the distribution of PPS payments.

6. This figure is based on MedPAR data for fiscal years 1984 and 1989, and ProPAC's estimate of a 2.5 percent increase in the CMI for fiscal year 1990.

7. The National Hospital Panel Survey is a monthly survey of hospitals conducted by the AHA. The data from this survey are not directly comparable to the Medicare Cost Report data cited above because the time periods covered do not match and because the figure reported by the AHA is the mean, rather than the aggregate, total margin.

8. See, for example, Judith Feder, Jack Hadley, and Stephen Zuckerman, "How Did Medicare's Prospective Payment System Affect Hospitals?" *New England Journal of Medicine* 317(14): 867-73, October 1, 1987; and Steven H. Sheingold, "The First Three Years of PPS: Impact on Medicare Costs," *Health Affairs* 8(3):191-204, Fall 1989.

9. In addition to updating the wage index, the 1988 HCFA data included benefits per paid hour of employment, while the 1984 data did not.

10. See *Adjustment to the Nonlabor-Related Portion of the Standardized Amounts*, ProPAC Technical Report C-89-03, August 1989.

Chapter 2—Recommendations

When the Prospective Payment Assessment Commission was created by Congress in 1983, its primary responsibility was to analyze issues and make recommendations for updating and improving the Medicare prospective payment system. Over time, Congress has expanded ProPAC's responsibilities to include analyzing current policies and developing future ones for

prospective payment for all facility services furnished to Medicare beneficiaries.

The Commission's expanded responsibilities include payment policy for hospital outpatient services; services furnished in free-standing surgery, end-stage renal disease, and other facilities; and services provided by skilled nursing facilities and home health agencies. ProPAC, however, continues to devote substantial effort to updating and improving policies for PPS hospitals and excluded hospitals and distinct-part units. The Congress has also requested ProPAC to examine and report on broader issues regarding the effectiveness and quality of health care delivery in the United States.

From 1985 through 1990, ProPAC's recommendations were delivered to the Secretary of the Department of Health and Human Services. Following the enactment of the Omnibus Budget Reconciliation Act of 1990, the Commission's report and recommendations are now made directly to Congress. The Secretary, however, is still required to consider ProPAC's recommendations and respond to them in the annual notice of rulemaking published in the *Federal Register*.

ProPAC's analyses and decision making are guided by a set of principles that were initially developed on the basis of PPS goals, but that are applicable to other facility services. They include:

- Ensuring beneficiary access to high-quality health care;
- Encouraging hospital productivity and long-term cost-effectiveness;
- Facilitating innovation and appropriate technological change;
- Promoting equity in the distribution of payments to hospitals;
- Maintaining stability for providers, consumers, and third-party payers; and
- Making decisions based on reliable, timely data for information.

Along with these principles, the Commission is mindful of the current fiscal environment. Attaining a balance Federal budget and controlling rising health care costs are concerns the Commission takes into account with each recommendation. Moreover, budgetary pressures intensify the need to address distributional and technical payment issues that may affect access and quality of care furnished to Medicare beneficiaries.

ProPAC's recommendations reflect the collective judgment of the 17 Commissioners. Some of the recommendations address annually recurring topics, such as the annual update factors. Others are either modifications of previous recommendations or cover new issues and incorporate recent research findings. This year, in addition to making recommendations, the Commission has highlighted several areas of concern. Work on these and other issues continues.

The Commission addresses eight areas:

- Updating PPS payments,
- Rural hospital payment,
- Teaching and disproportionate share hospital payment,
- Other adjustments to PPS,
- Capital payment,
- Updating and adjusting payments to PPS-excluded hospitals and distinct-part units,

- Hospital outpatient payment, and
- Uncompensated care.

The next section discusses these recommendations and concerns. The final section describes other issues considered by the Commission.

RECOMMENDATIONS FOR FISCAL YEAR 1992

Updating PPS Payments

The Commission is required by law to report to the Congress each year on the appropriate change factor for updating inpatient hospital payment rates under PPS. In developing its annual recommendation for updating the standardized payment amounts under PPS, ProPAC must consider changes in the hospital market basket and hospital productivity, technological and scientific advances, and the quality and long-term cost-effectiveness of health care. The Commission formerly made its update recommendation to the Secretary of Health and Human Services. Although this was changed under OBRA 1990, the Secretary must still consider the Commission's recommendation in developing his update recommendation.

In OBRA 1990, Congress legislated the PPS update for fiscal year 1992 at the increase in the market basket minus 1.6 percentage points for urban hospitals and minus 0.6 percentage points for rural hospitals. Although the fiscal year 1992 update has been set by law, the Commission has followed the approach it used in the past: examining individual factors that determine the update. ProPAC believes these update amounts, together with increased per-case payments due to case-mix index change, are sufficient to maintain access to quality care, by Medicare beneficiaries while encouraging the efficient provision of hospital care.

Recommendation 1: Amount of the Update Factor for PPS Hospitals

For fiscal year 1992, the PPS standardized payment amounts should be updated to account for the following factors:

- The projected increase in the HCFA PPS market basket, currently estimated at 4.8 percent;
- An adjustment of 0.2 percentage points, to reflect the difference between the ProPAC and HCFA market baskets;
- A correction for substantial error in the fiscal year 1990 market basket forecast, currently estimated at -1.0 percentage points;
- A discretionary adjustment factor of 0.2 percentage points; and
- A net -1.0 percentage point adjustment for case-mix change.

Further, an additional positive adjustment of 1.0 percentage points for rural hospitals should be made to reflect the second year of phasing out the differential in the standardized amounts between rural and other urban hospitals. Through differential updates, the rural standardized amount should be increased until it equals the other urban standardized amount in fiscal year 1995.

The Commission's recommendation would result in an increase of 4.2 percent for rural hospitals and 3.2 percent for urban hospitals.

This reflects the Commission's judgment about the appropriate increase in the level of PPS prices for fiscal year 1992. Although this recommendation is likely to be modified as more current market basket forecasts become available, the amount recommended for rural and urban hospitals is the same as that specified in current law. The components of the Commission's update factor recommendation are summarized in Table 2-1; a discussion of each follows.

TABLE 2-1. RECOMMENDED PPS UPDATE FACTORS FOR FISCAL YEAR 1992

Components of the Update Factor	Percent	Percent
Components applied to all hospitals:		
Fiscal year 1992 PPS market basket forecast*		4.8
Adjustment to reflect ProPAC version of PPS market basket*		0.2
Correction for fiscal year 1990 forecast error		-1.0
Components of discretionary adjustment factor:		
Scientific and technological advancement	0.7	
Productivity	-0.5	
Total discretionary adjustment factor		0.2
Adjustments for case-mix change (fiscal year 1991):		
Total DRG case-mix index change	-2.5	
Real DRG case-mix index change	1.3	
Within-DRG case complexity change	0.2	
Net adjustment for case-mix change		-1.0
Additional adjustments to the standardized amounts:		
Adjustment for large urban areas	0.0	
Adjustment for other urban areas	0.0	
Adjustment for rural areas	1.0	
Total Update Factor:		
Large urban	3.2	
Other urban	3.2	
Rural	4.2	
Average update factor		3.4

*Market basket forecast provided by the Health Care Financing Administration, Office of the Actuary, December 1990. The market basket forecast is subject to change as more current forecasts become available.

The increase in average per-case payments will be greater than the PPS update. This is because hospital payments automatically rise with increases in the case-mix index. Future changes in the case-mix index are difficult to project, however. Based on currently available data, the Commission estimates that the 1992 case-mix index change will be 2.3 percent. As a result, the average increase in per-case payments under the Commission's recommendation would be about 5.7 percent, as shown in Table 2-2. ProPAC expects that a portion of the revenue increase associated with case-mix change will be offset by the added costs of treating sicker patients.

PPS Market Basket—The update recommendation is determined primarily by

projected increases in the PPS market basket. HCFA and ProPAC, however, have different versions of the PPS market basket. HCFA's version is currently projected to increase by 4.8 percent in fiscal year 1992, while ProPAC's market basket is projected to increase by 5.0 percent. Since the update is legislated relative to a market basket that HCFA would implement, HCFA's market basket construction would likely be used to update fiscal year 1992 payments.

TABLE 2-2. ESTIMATED FISCAL YEAR 1992 AVERAGE INCREASE IN PER-CASE PPS PAYMENTS

PPS update factor	3.4%
Estimated case-mix index change (fiscal year 1992)	2.3
Total increase in average PPS payments*	5.7

* Most of the increase in payments resulting from case-mix index change will be offset by the increased costs of treating sicker patients.

The Commission believes, however, that its version of the market basket best reflects changes in hospital input prices (prices hospitals pay for goods and services) and therefore should be used to update PPS payment rates. While HCFA adopted most of the Commission's 1990 recommendation on the market basket, it failed to adopt the key provision that increased the weight of internal hospital wages used in the wage component of the market basket. The Commission believes that HCFA's market basket, as currently constructed, does not adequately recognize the unique characteristics of the hospital labor market. Therefore, ProPAC's update recommendation includes a 0.2 percentage point adjustment, to reflect the difference between the two market basket forecasts. See Appendix A for more information.

Forecast Error Correction—ProPAC's update recommendation also includes a -1.0 percentage point adjustment for fiscal year 1990 market basket forecast error. A market basket forecast of 5.5 percent was used to set payments in fiscal year 1990. The actual market basket increase, however, was only 4.5 percent, creating a forecast error of -1.0 percentage points. ProPAC continues to believe the correction should be part of its update framework. The correction factor protects both hospitals and the Federal government by adjusting the base payment rates so that the effects of forecast errors are not perpetuated. See Appendix A for more information on the market basket forecast error correction factor.

Discretionary Adjustment Factor—The discretionary adjustment factor incorporates considerations related to scientific and technological advancement and hospital productivity improvement, as provided in the statute establishing PPS. Analysis of the available data has led the Commission to conclude that reasonable ranges of the positive scientific and technological advancement allowance and the negative productivity improvement adjustment net to 0.2 percentage points. This is based on a 0.7 percent scientific and technological advancement allowance and a -0.5 percent productivity adjustment. The Commission

believes the DAF should continue to give hospitals an incentive to strive for productivity improvement as they adopt quality-enhancing technologies.

The scientific and technological advancement allowance is a future-oriented policy target. It provides additional funds for hospitals to adopt quality-enhancing but cost-increasing health care advances. To develop an informed judgment on the allowance, the Commission examines a set of the most important new technologies and scientific developments each year, including the effects of those that either complement or substitute for existing technologies. The range of the estimated costs was 0.5 percent to 1.0 percent, but these estimates do not include the effect of "small-ticket" technologies or changes in practice patterns. Given the wide range of the possible cost impact, ProPAC believes that 0.7 percent is an appropriate level for the scientific and technological advancement allowance.

The productivity adjustment in the DAF is also a future-oriented target. Based partly on its analysis of the trend in productivity over the last 10 years, ProPAC thinks it is reasonable to expect hospitals to improve productivity during fiscal year 1992. The Commission also believes that it is appropriate for the costs of scientific and technological advancement to be financed partially by productivity gains. The -0.5 percent recommended adjustment assumes productivity gains of at least 1.0 percent, reflecting the Commission's policy that the savings from productivity improvement should be shared equally by the Medicare program and the hospital industry. See Appendix A for more information on the DAF.

Adjustments for Case-Mix Change—For fiscal year 1992, the PPS standardized amounts should be reduced by 1.0 percentage points to account for increased payments from case-mix index change. This adjustment reflects:

- A 2.5 percentage point reduction for the estimated case-mix index change during fiscal year 1991,
- A positive allowance of 1.3 percentage points for real across-DRG case-mix index change during fiscal year 1991, and
- A positive allowance of 0.2 percentage points for within-DRG case-complexity change during fiscal year 1991.

To allow payments to increase for real case-mix change, while removing the effect of upcoding (changes in medical record documentation or coding practices that affect DRG assignment), the Commission's recommended adjustment for case-mix change has three parts. The first component is a negative adjustment for the CMI increase from the previous year. This is removed from the payment base because it includes the effects of upcoding. Two positive allowances are then made for real case-mix change: one for real, across-DRG CMI change and another for within-DRG case-complexity change. This methodology allows hospitals to keep increased payments for real changes in the resources used to treat patients, but not for changes in medical record documentation and coding practices.

Annual CMI change has generally declined over time. However, this downward trend has been interrupted when DRG changes created new opportunities for upcoding. ProPAC estimates that the CMI increased by 2.5 percent in 1990. Patient classification changes implemented in 1991 are expected to create additional potential for upcoding. Because of expected upcoding, the Commission projects that, rather than declining, CMI change will again be 2.5 percent in 1991 and 2.3 percent in 1992.

The Commission's estimate of real CMI change is based on previous studies that apportioned CMI change into real and upcoding components, and judgments about the future. ProPAC estimated that slightly more than half of the CMI change in 1990 was real. The Commission believes that about half, or 1.3 percent, of the CMI change in 1991 will be real.

The estimate of within-DRG case-complexity change was based on a study conducted under contract for ProPAC. The contractor estimated the amount of within-DRG case-complexity change from 1988 to 1989 by applying two patient classification systems to Medicare discharge data, while holding the DRG constant. The contractor estimated that case complexity increased by 0.3 percent over this period. The Commission estimates that case-complexity change in 1991 will be 0.2 percent. This estimate is based on the application of the study findings to more recent data.

During the first seven years of PPS, CMI change generated higher payment increases than those resulting from the annual updates and all other payment policy changes combined. Given the importance of case-mix change and the failure of CMI change to diminish as much as expected over time, the Commission will continue to study this topic. See Appendix A for more information on case-mix change.

Differential Updates—ProPAC supports OBRA's provisions to eliminate the difference between the standardized amounts for hospitals in other urban areas (metropolitan areas with fewer than one million people) and rural areas. The difference should be eliminated by fiscal year 1995 by providing higher updates to rural hospitals. ProPAC recommended in 1990 eliminating the differential and is pleased this policy has been adopted. Therefore, an additional adjustment of 1.0 percentage points should be added to the update for rural hospitals.

Since the beginning of PPS, the differences between urban and rural hospitals' costs and payments have changed. This is primarily the result of two trends. Increases in payments due to case-mix index change have been higher in urban hospitals than in rural hospitals. In addition, rural hospitals have had larger declines in inpatient volume, raising fixed costs per case.

The Commission continues to believe that payments under PPS should take into account those factors that are beyond the control of hospitals and are known to increase hospital costs. Until these factors are better understood and measured, the elimination of the differential will help to ensure access to care for rural beneficiaries. As specific reasons for these cost differences are better

explained, other, more targeted changes to rural hospital payments will be recommended.

Recommendation 2: Data for Evaluating Case-Mix Index Change

The Secretary should collect the data necessary to apportion case-mix change into its real and upcoding components.

Case-mix index change is the largest single source of payment increases under PPS, yet it is difficult to determine how much of these increases are due to real changes in patient resource requirements. The most accurate way to analyze CMI change is by examining medical records. For the past two years, HCFA, with support from ProPAC, has sponsored a study of CMI change that used the medical record abstraction approach. This study produced estimates of real CMI change and upcoding. However, it cannot be replicated. The data source on which it was based, medical records collected by the SuperPRO for use in evaluating PRO performance, no longer provides a representative sample of PPS cases.

A representative sample of medical records that can be updated annually is needed if analysis of CMI change is to continue. Although there may be other potential sources, the SuperPRO sample could again be used for this type of study if the sampling scheme were appropriately modified.

The Commission believes that CMI change continues to warrant serious examination. If major improvements to the case-classification system are adopted, as have been proposed, the potential for upcoding—and therefore the need to separate CMI change into its real and upcoding components—will increase. ProPAC will continue to support HCFA in its efforts to analyze the components of CMI change.

Rural Hospital Payment

Since the implementation of PPS, numerous changes have been made in Medicare policies of reflect the changing pattern of rural health care delivery. While rural and urban hospitals currently exhibit similar overall financial performance, some rural hospitals continue to fare poorly under PPS. Several improvements in PPS policies have been enacted recently, and it is too soon to evaluate their effects. Other changes, such as eliminating the differential in the standardized amounts, are being phased in. Current PPS policies may not be appropriate for some rural hospitals, and the Commission is continuing its analyses of specific problems these hospitals face. A congressionally requested report, to be issued in mid-1991, will contain additional findings and recommendations. These recommendations will suggest policy reforms more tailored to the specific problems faced by some rural hospitals.

Many factors have affected the use and financial condition of hospitals in rural areas. These include changes in patient demographics, rural economies, the use of hospitals by rural beneficiaries, physician availability, and third-party payment policies. While many of these factors are not directly related to the Medicare program, under PPS rural hospitals have generally not fared as well financially as urban hospitals.

The poorer performance of some rural hospitals is related to two separate trends. First, rural hospitals have experienced large declines in the demand for inpatient care. Because fixed costs are spread over fewer cases, costs per discharge have increased faster than Medicare payment rates. Second, the Medicare case-mix index, which in part determines PPS payments, has increased less rapidly and led to smaller increases in payments for rural hospitals compared with urban hospitals. In the fifth year of PPS, rural hospital PPS margins averaged -2.3 percent, while urban hospital PPS margins averaged 3.6 percent.

However, not all rural hospitals are doing poorly: during the same year, a quarter of all rural hospitals had PPS margins of at least 8.5 percent. Furthermore, rural hospitals' total hospital margins are significantly higher than their PPS margins and are similar to the total margins of urban hospitals. Thus, some rural hospitals are in little or no financial distress.

These mixed results may reflect the broad nature of many of the policy reforms adopted to date. Higher annual rural updates, improvements in the wage index, the shift from hospital to discharge weighting, and the creation of separate outlier financing pools for rural hospitals have increased payments to all rural hospitals. However, they have not targeted these increases to hospitals with specific problems. Most importantly, the Commission is concerned that a per-case payment system like PPS puts small hospitals and hospitals experiencing large volume declines at substantial risk.

To better understand the nature of the problems facing rural hospitals in distress, the Commission is conducting several analyses. Its findings and recommendations will be included in a report requested by the Senate Appropriations Committee. To be completed in mid-1991, this report will help identify potential policy solutions for the particular problems of subsets of rural hospitals for which current PPS policies may be inappropriate.

The Commission has organized its analyses of rural hospitals around the potential problems these institutions face. In one study, ProPAC is estimating the impact of changes in rural hospital payment policy under PPS. This analysis will assess the contributions of changes in Medicare policy, case mix, and volume to the financial condition of these institutions. In another study, the Commission is examining the role of declines and volatility in volume in shaping hospital performance. This study will assess the impact of a possible automatic volume adjustment for hospitals experiencing large declines in volume. In addition, the Commission will examine the effect of large volume declines on fixed and average costs and the implications for payments.

Low volume and differences in resource use may also affect the adequacy of the current DRG weights, and thus payments, for rural hospitals. Given their size and occupancy, some rural hospitals may not have the volume necessary to produce sufficiently low average costs per case so that their payments cover their actual costs. Low-volume hospitals also may be adversely

affected by the high variability in the costs of their cases. Since PPS payments are based on national average amounts, low-volume hospitals may experience greater year-to-year variation in their PPS performance. In addition, it is possible that national weights may be unfair because weights based on rural hospitals' costs may be quite different from those based on urban hospital costs.

Finally, ProPAC is concerned that the current definition of sole community hospitals is ineffective in identifying hospitals requiring special protection to ensure rural beneficiaries' access to care. Both access to care and hospital performance will be considered in evaluating whether a subset of hospitals requires special protection and, if so, how best to accomplish this.

These analyses will provide important information on the nature and extent of the problems experienced by rural hospitals. They will suggest more tailored policy reforms directed at the specific problems that some rural hospitals are experiencing. Implicitly, the studies also investigate the appropriateness of PPS for small, low-volume hospitals. The Commission is aware, however, that many factors shape rural hospital financial status. Only some of these are related to the adequacy and distribution of PPS payments. While the Medicare program cannot be expected to reverse the effects of broader shifts in the economy or demographics, it should help ensure access to care for all its beneficiaries.

Teaching and Disproportionate Share Hospital Payment

PPS payments are adjusted to recognize the indirect costs of graduate medical education programs and the additional costs faced by hospitals that provide care to a disproportionate share of low-income patients. The adjustment for indirect medical education costs is based on a measure of the hospital's teaching intensity, determined by the ratio of interns and residents per bed. The adjustment for disproportionate share hospitals is based on the hospital's low-income share, which is defined as the sum of two proportions: the proportion of patient days accounted for by Medicaid patients and the proportion of Medicare patient days accounted for by patients who also receive Supplemental Security Income (SSI) payments.

Recently, these adjustments have been the subject of increasing attention. The Administration has proposed sharp reductions in the IME adjustment in each of the past several years. The Commission has proposed comparatively slight reductions, but the IME adjustment remains approximately 7.7 percent for every 10 percent increment in teaching intensity. ProPAC estimates that the IME adjustment accounts for 5.4 percent of total PPS payments under fiscal year 1991 payment rules.

The DSH adjustment was added to PPS in fiscal year 1986, and its importance has grown since then. In OBRA 1989, Congress increased the size of the adjustment for many disproportionate share hospitals as well as the number of hospitals in rural areas that qualify for an adjustment. In OBRA 1990, the Congress again substantially increased the

size of the adjustment, primarily for hospitals in urban areas. Under fiscal year 1991 payment rules, the DSH adjustment accounts for an estimated 4.1 percent of total PPS payments.

ProPAC has analyzed the IME and DSH adjustments, their interaction, and their effects on hospital payments and financial status. Based on this analysis, the Commission is recommending a reduction in the level of the IME adjustment together with increased efforts to better target both adjustments to achieve their policy objectives.

Recommendation 3: The Indirect Medical Education Adjustment

The Commission recommends that the indirect medical education adjustment to PPS payments be reduced from its current level of 7.7 percent to 7.0 percent for fiscal year 1992. This reduction should be implemented in a budget-neutral fashion, with the anticipated decrease in indirect medical education payments returned to all hospitals through corresponding increases in the standardized payment amounts.

The IME adjustment is intended to recognize the higher costs incurred by teaching hospitals in the treatment of Medicare patients. These costs have been attributed to the treatment of patients with more severe or complex illnesses, the provision of a broader scope and greater intensity of services, the use of a more costly mix of staff, and greater facility expenses.

ProPAC annually estimates the relationship between teaching intensity and Medicare operating costs per discharge, adjusted for differences in other PPS payment factors. These factors include geographic differences in the PPS base payment amounts, the local area wage index, the hospital's Medicare case-mix index, the DSH adjustment, and outlier payments. The most recent analysis was based on cost data from the fifth year of PPS and payment rules for fiscal year 1991. The results indicate that, on average, a 10 percent difference in teaching intensity is associated with a 2.1 percent difference in Medicare operating costs per discharge.

This year, however, the Commission also estimated the same relationship without adjusting for DSH payments. This approach was designed to determine the effect of teaching intensity on costs, separate from the influence of DSH payments. This reflects the Commission's determination that the IME and DSH adjustments have essentially different policy objectives, although there is substantial overlap between them. The objectives of the IME and DSH adjustments are discussed further below.

Omitting the DSH adjustment from the analysis increased the estimated teaching intensity effect to 4.2 percent. This indicates that DSH payments account for about half of the difference in costs that would otherwise be attributed to teaching intensity.

The Commission recognizes that, since PPS began, the Medicare program has more than adequately compensated teaching hospitals for the costs of treating Medicare patients. The current 7.7 percent IME adjustment is substantially higher than the empirical estimate of 4.2 percent indicated by the most recent analysis. Moreover, PPS

operating margins consistently have been higher for teaching hospitals than for non-teaching hospitals. PPS margins for major teaching hospitals—a small group of hospitals that receive a majority of IME payments—have been especially high.

However, the overall financial performance of major teaching hospitals has been poor relative to other hospitals. Major teaching hospitals have had lower total margins than other hospital groups. The pattern of IME payments across hospitals indicates that these payments are concentrated among hospitals with low total margins. The Commission is concerned that the continued operation of these hospitals and the fulfillment of their unique role in the provision of health care might be impaired without continued Federal support.

The Commission believes that the Medicare program's responsibility to its enrollees is broader than merely the payment of Medicare operating costs. This responsibility includes maintenance of access to high-quality health care, which might be affected adversely if the poor financial status of major teaching hospitals were to worsen. A sharp reduction of the IME adjustment might have that undesirable effect.

Given these considerations, the Commission believes that a gradual reduction of the IME adjustment is a prudent course of action. This reduction should be implemented in conjunction with better targeting of payments to the teaching and other hospitals in most need. The ProPAC recommendation would reduce the adjustment by one-fifth of the difference between its current level and the Commission's empirical estimate of 4.2 percent. Before recommending further reductions, the Commission will examine the financial status of teaching hospitals to avoid any deleterious effects on access to high-quality care for Medicare beneficiaries.

This approach recognizes as an ultimate objective the use of the IME adjustment to appropriately compensate for differences in Medicare costs that are attributable to differences in teaching intensity. At the same time, the DSH adjustment or a future refinement of that adjustment should be used to fulfill the broader social responsibilities of the Medicare program as efficiently as possible. No preferable alternative to the DSH adjustment is available at this time, but the amount of information on this issue has grown rapidly in the past year. The Commission's agenda for refining the DSH adjustment is discussed further in the next section.

The Commission therefore recommends a reduction in the IME adjustment from its current level of 7.7 percent to 7.0 percent for fiscal year 1992. The anticipated decrease in IME payments that would result from this reduction should be exactly offset by corresponding increases in the standardized payment amounts for urban and rural hospitals.

As stated above, reductions in the IME adjustment should be considered in the context of their interaction with the other components of the payment system and their effect on PPS payments, as well as hospitals' overall financial status. The impact on the

quality of care and access to that care should also be considered. In general, any change in Medicare payment policy must be considered in terms of its effect on the health care system as a whole.

Toward this end, the Commission has intensified its attempts to understand the effects of factors external to the Medicare program and their interactions with Medicare payment. Several of these factors—such as the burden of uncompensated care, which is discussed later in this chapter—may affect the environment in which teaching hospitals operate, and thus be important in determining the appropriate way to pay them.

In the coming year, ProPAC will continue to examine the level and structure of the IME adjustment, as well as other factors that influence payments and costs for teaching hospitals and their financial condition. The distribution of PPS and total margins and the other effects of potential changes in the IME adjustment will also be studied. A description of ProPAC's most recent analysis is in appendix A.

The Disproportionate Share Adjustment

The Commission believes it is important to examine the structure of the disproportionate share adjustment and the interaction between this adjustment and other elements of the health care financing system, both within and beyond the Medicare program. This examination will focus on developing changes that will better target the payments made under the disproportionate share adjustment to achieve its policy objectives.

One purpose of the DSH adjustment is to recognize the additional costs faced by hospitals that treat a disproportionate share of indigent patients in treating all patients, including those covered by Medicare. These costs are attributable to greater severity of illness among poor patients in any diagnosis-related group, and greater difficulty in arranging for post-acute care for these patients. In addition, there are indirect costs—such as bilingual staff and additional security requirements—associated with operating in areas accessible to the poor.

There is substantial overlap between the hospitals that receive the IME and DSH adjustments. Under fiscal year 1991 payment rules, disproportionate share hospitals receive more than two-thirds of all IME payments, and teaching hospitals receive about two-thirds of all DSH payments.

However, ProPAC's analysis indicates that, unlike teaching hospitals, disproportionate share hospitals generally do not have significantly higher Medicare costs than other hospitals. Urban hospitals with large shares of low-income patients are the only exception to this finding.

Like teaching hospitals, disproportionate share hospitals have been more than compensated for their Medicare costs. PPS margins for disproportionate share hospitals are substantially higher than for other hospitals. However, disproportionate share hospitals have low total margins.

There also is overlap in financial status by teaching and disproportionate share status. Hospitals that receive both IME and DSH adjustments to their PPS payments have the highest PPS margin as a group, while

hospitals that receive neither adjustment have the lowest PPS margin. However, the total margin for the teaching and disproportionate share group is lower than for the other groups.

Of particular note is the poor overall financial condition of disproportionate share hospitals in the cores of large urban areas. These hospitals provide the main link to the health care system for many people who are too poor to pay for medical care. Without appropriate Federal support, many of these hospitals might lack the resources to provide the care required by the population they serve.

The Commission believes that, although the relationship between disproportionate share status and Medicare costs is not strong, this may be due to the revenue constraints historically faced by hospitals that provide the bulk of care to the poor. Moreover, it is appropriate for the Federal government to subsidize continued access to care for this population, which includes many Medicare beneficiaries. Although it could be argued that more direct policy initiatives would be more effective in accomplishing this goal, the Medicare and Medicaid programs are currently the primary vehicles for such financial support.

In this context, the Commission believes it is important to improve the allocation of IME and DSH payments to fulfill two objectives. One is the program-specific objective of appropriately compensating hospitals for their Medicare costs. The other is the broader objective of maintaining access to care for the Medicare population and others.

ProPAC has undertaken several analyses of the structure of the IME and DSH adjustments and their effects, and also of factors that might indicate better ways to target IME and DSH payments. These analyses indicate that, although both IME and DSH payments appear to be concentrated among hospitals with low total margins, such payments also are received by hospitals that were not in poor financial condition in the fifth year of PPS. Moreover, the patterns of IME and DSH payments across hospitals do not seem to correspond well to the pattern of uncompensated care burden (see the discussion of uncompensated care later in this chapter).

Neither total margin nor uncompensated care burden is necessarily a good indicator of the appropriateness of the distribution of IME or DSH payments. However, these analyses show that, regardless of the measure, the current targeting of IME and DSH payments, while in the right direction, leaves room for improvement.

In its recommendation on the IME adjustment, the Commission states that the DSH adjustment or a future refinement of that adjustment should be used to fulfill the broader social responsibilities of the Medicare program as efficiently as possible. The Commission will focus in the coming year on developing information on the effects of the current DSH adjustment and the feasibility of alternatives to that adjustment. ProPAC also urges the Secretary of Health and Human Services to pursue this line of analysis—including the analysis and development of more direct methods beyond

Medicare for fulfilling the Federal government's broader responsibilities to maintain access to high-quality health care for the entire population.

Other Adjustments to PPS

Recommendation 4: Improving the Area Wage Index

The Secretary should collect data on employee compensation and paid hours of employment for hospital workers by occupational category. Once these data become available, the Secretary should implement an adjustment in the area wage index. This adjustment would correct for the inappropriate inclusion in the wage index of geographic differences in the mix of occupations employed.

Hospital expenditures for labor vary across geographic areas because of differences in the price of labor and the occupational mix employed by hospitals. The price of labor varies across areas because of differences in the cost of living and other local market conditions. The occupational mix varies across areas due to differences in the complexity of services produced in an area, the supply of certain occupations, and staffing practices. Currently, the HCFA wage index reflects variations in the mix of occupations as well as the price of labor.

The Commission believes that compensating hospitals through the area wage index for differences in occupational mix across areas is inconsistent with the design of PPS. Differences in expenditures caused by variation in the price per unit of labor are beyond the hospital's control. Differences in expenditures due to variations in the mix of occupations employed, however, are either within the hospital's control or are already accounted for by other adjustments in PPS.

ProPAC's study of 1988 California hospital wage and hour data suggests that an adjustment for occupational mix would increase the wage index values in rural areas and decrease the values in large urban areas. In this study, the wage index value for rural California would have risen by about 3.0 percent. The change in the wage index ranged from a 2.4 percent decrease for Oakland (population 1.8 million) to a 7 percent increase for Yuba City (population 101,000). Further, the adjustment appeared to decrease the variation in wage index values across areas. This means that the current wage index tends to overcompensate areas with high wage index values and undercompensate areas with low wage index values.

Last year, the Commission examined the effect of adjusting the wage index using Bureau of the Census wage data on occupations typically employed in hospitals and American Hospital Association full-time equivalent (FTE) employment data. ProPAC found that holding differences in occupational mix constant across areas would increase the wage index values in more than 75 percent of rural areas. The median wage index in urban areas, however, would decline slightly. The urban and rural findings varied by region. The wage index values in both urban and rural areas would

increase in the South but decline in the Northeast. The regional effect likely reflects the location of hospitals with a more expensive occupational mix, teaching hospitals, relatively large institution, and hospitals in large metropolitan statistical areas (MSAs). Finally, wage index values in some areas were affected more than in others. In Montana and in some small southern MSAs, the increase in these values was three to six times higher than the average 1.8 percent increase in rural areas.

The impact on the distribution of payments among hospitals would depend on how the new adjusted wage index is implemented. Under the current system, the 3 percent increase in the wage index for rural California indicated by the recent study would result in a payment increase of about 2 percent.

The Commission has considered the feasibility and burden of collection the data on wages and paid hours of employment necessary to adjust for occupational mix. The California experience indicates that hospital reporting of these data is clearly feasible. In addition, several other states have reporting systems similar to the system in California.

Although ProPAC did not formally measure the burden of hospital reporting, the example of hospitals in California and elsewhere indicates that the cost would not be prohibitive. Once such a system is implemented, the ongoing cost of reporting wage and hour data by occupational category is likely to be quite small. The Commission recommends prospective implementation of occupational definitions and data collection methods to minimize administrative burden and improve the accuracy of the data. In addition, the data should be collected, as in California, by cost centers. This would allow the development of separate wage indexes for inpatient and ambulatory services. Finally, the Commission believes that data on hours worked and expenditures for contract labor should be collected by occupation and cost center. This would permit an evaluation of the impact of including contract labor in the wage index.

ProPAC also considered the potential impact of state codes and staffing requirements on variations in hospital occupational mix. Some have argued that local staffing practices are not fully within the hospital's control because of state minimum staffing requirements. If this were true, hospitals in states that have strict requirements, such as New York, would be expected to have relatively high levels of occupational mix. However, based on ProPAC analysis of American Hospital Association data, the typical hospital in New York State appears to have an occupational mix index value that is only slightly higher than the national median.

Recommendation 5: Adjusting Payments for Acute Myocardial Infarction Cases

A one-time adjustment should be made in the DRG recalibration process used in calculating revised DRG weights for fiscal year 1992. The adjustment would be designed to prevent continuation of errors in payment caused by changes in coding and DRG assignments for patients with a diagnosis of myocardial infarction.

In fiscal year 1990, HCFA implemented new, five-digit codes for cases with a diagnosis of myocardial infarction (MI). These codes distinguish patients who had an acute MI just before or during their hospital stay from those who were no longer in the acute phase of this illness at the time of admission. HCFA also reassigned the nonacute cases from the acute MI DRGs to other DRGs that are more appropriate in terms of both clinical characteristics and resource use. However, historical data reflecting these coding and assignment changes were not available. Therefore, HCFA decided not to change the DRG relative weights for either the acute MI DRGs or the other DRGs to which the nonacute MI cases were reassigned.

At the time, the Commission was concerned about the short- and long-term payment inequities resulting from these decisions. Weights for the acute MI DRGs for fiscal years 1990 and 1991 are based on all MI cases, both acute and nonacute, treated during fiscal years 1988 and 1989, respectively. Consequently, these weights are inappropriately low for the relative by high-cost acute MI cases assigned to these DRGs in fiscal year 1990 and later years. Similarly, the weights for other DRGs do not account for the nonacute MI cases that are now reassigned to them for payment. Preliminary evidence suggests that, on average, these weights are also too low. Therefore, hospitals treating patients in the acute MI DRGs and the other DRGs affected by the coding and assignment changes were underpaid during fiscal year 1990. This has continued during fiscal year 1991.

The problem of incorrect weights will be resolved when the weights are recalculated for fiscal year 1992. The new weights will be based on fiscal year 1990 data, which reflect the coding changes adopted in that year. Therefore, it will be possible to calculate correct relative weights for both the acute MI DRGs and the other DRGs affected by the reassignment of nonacute MI cases.

However, the Commission continues to be concerned that the recalibration process, which is used to revise the weights each year, ensures that the underpayments in fiscal years 1990 and 1991 will be carried forward into the future. In recalibration, the fiscal year 1992 weights will be adjusted proportionately so that the average weight for all 1990 cases is the same, whether fiscal year 1991 or 1992 weights are used. In addition, current law requires the Secretary to make further adjustments, as necessary, to ensure that the 1992 DRG classification system and the final 1992 weights neither increase nor decrease aggregate PPS payments to hospitals.

In both parts of this process, the standard of comparison is based on the DRG classification system and weights for fiscal year 1991. The fiscal year 1991 weights, however, reflect the underpayment for cases included in the acute MI DRGs and the other DRGs affected by reassigning the nonacute MI cases. Therefore, the overall average weight based on the fiscal year 1991 weights will be too low. Without an offsetting adjustment, the underpayments that occurred in fiscal year 1991 will continue to affect the

level of the weights for all DRGs in fiscal year 1992 and later years.

To avoid perpetuating these unintended errors in payments, the Commission recommends that HCFA make a compensating adjustment when the new weights are recalibrated for fiscal year 1992. ProPAC will be pleased to work with HCFA to devise an appropriate adjustment.

Capital Payment

The Commission believes that Medicare capital payment policy should recognize hospitals' prior capital expenditures and related financing costs, while encouraging appropriate and efficient investments. Further, the policy should be designed to limit increases in aggregate program expenditures for inpatient hospital care. ProPAC will evaluate and comment on the forthcoming capital payment proposal from the Secretary of Health and Human Services. It will recommend modifications to the proposal, as appropriate, or an alternative payment approach, if warranted.

The Secretary is required to develop a prospective payment system for capital to be implemented beginning October 1, 1991. Because of this legislative requirement, the Commission has again turned its attention to Medicare capital payment policy. In 1986 and 1987, ProPAC recommended that capital be incorporated in an all-inclusive prospective payment rate. Given changes in the hospital environment, however, the Commission has chosen to lay aside its previous recommendations and reconsider capital payment policy.

Since the beginning of PPS, it has been intended that hospital capital costs would be incorporated under the DRG payment rate. The timing of this incorporation has been repeatedly delayed through legislation, for technical and political reasons. Policy makers and the hospital industry have had difficulty developing a plan for prospective payment for capital because capital costs, more than operating costs, vary significantly across similar institutions. This variation is due to many factors, including differences in the timing of major capital investments and various financing methods and rates. Capital costs associated with major projects generally extend over a significant period. Therefore, hospital managers have limited ability to adjust existing costs to adapt to changing financial incentives or patient demand.

The Commission appreciates that a change in Medicare capital payment may be disruptive to some hospitals. On the other hand, there are important arguments for applying the incentives of PPS to capital costs as well as to operating costs. Currently, hospitals may have incentives to choose capital investments over operating investments. This is because Medicare pays for operating costs on a fixed, prospective, per-case basis, while capital costs are paid on a hospital-specific, cost basis with a discount. The Commission will balance these concerns, and consider information about the growth in capital costs, in assessing appropriate capital payment policy.

Updating and Adjusting Payments to PPS-Excluded Hospitals and Distinct-Part Units

Since the implementation of Medicare's prospective payment system in 1983, psychiatric, rehabilitation, long-term, and children's hospitals and psychiatric, as well as rehabilitation distinct-part units, have been exempt. Cancer hospitals were exempted from PPS as a result of OBRA 1989. The primary reason for their exemption is that DRGs do not accurately predict resource costs for these providers.

PPS-excluded hospitals and distinct-part units are subject to the payment limitations and incentives established in the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). They are paid on the basis of each facility's historical costs trended forward, with a limit placed on the rate of increase in per-case reimbursable costs. These TEFRA target rate-of-increase limits are updated annually. The target rate per discharge is based on hospital-specific Medicare costs in a base year. The base year varies depending on when the facility was constructed or converted to a PPS-excluded category.

Facilities with costs less than the target rate per discharge receive their costs plus an additional payment that is the lesser of 50 percent of the difference between its costs and the TEFRA target rate, or 5 percent of the TEFRA target rate. Beginning in fiscal year 1992, providers with costs exceeding their target rates will receive 50 percent of this difference subject to a payment ceiling of 110 percent of the target amount.

The Secretary is required to provide for an exemption from, or an exception and

adjustment to, the amount of payment for a hospital when events beyond the hospital's control result in the increase in costs for a reporting period. The Administrator of HCFA is required to provide written guidance to the intermediaries and hospitals to assist them in filing complete applications.

The TEFRA target rate-of-increase limits are updated annually. PPS-excluded hospitals and distinct-part units received the same update provided to PPS hospitals until fiscal year 1989. The PPS update, however, was constrained due to rapid growth in PPS payments resulting from casemix index increases. Over the first seven years, payments to PPS providers increased nearly 70 percent, reflecting the update factor and reported changes in case mix. The market basket increase during this period was about 35 percent. However, PPS updates, and thus the TEFRA target rates, increased only 27 percent. PPS-excluded providers did not benefit from the increased payments PPS hospitals received due to changes in the CMI.

Since fiscal year 1989, Congress has set the TEFRA target rate update equal to the projected increase in the market basket, as recommended by ProPAC. Beginning in fiscal year 1991, the Secretary implemented a separate market basket for PPS-excluded providers. While the update has been legislated, Congress requires the Commission and the Secretary of HHS to make their own recommendation for an annual update factor to the TEFRA target rates.

Recommendation 6: Amount of the Update Factor for PPS-Excluded Hospitals and Distinct-Part Units

For fiscal year 1992, the target rate of increase for PPS-excluded hospitals and distinct-part units should be updated to account for the following factors:

- The projected increase in the HCFA PPS-excluded market basket, currently estimated at 4.9 percent;
- An adjustment to the market basket of 0.2 percentage points, to reflect the difference between the ProPAC and HCFA market baskets;
- A correction for substained error in the fiscal year 1990 market basket forecast, currently estimated at -1.0 percentage points; and
- An allowance for scientific and technological advancement of 0.1 percentage points.

In addition, a positive allowance should be given to TEFRA providers that entered the program before fiscal year 1989, depending on the base year used to calculate their target rates. This allowance reflects the difference between the actual updates given in earlier years and the market basket for that year.

The legislated update to the TEFRA target rate is the projected increase in the market basket. The Commission recommendation results in an average update to the target rate equal to the market basket minus 0.7 percent (see Table 2-3). ProPAC believes the savings achieved from this reduction should be used to help offset the increased costs resulting from the positive allowance adjustment based on the hospital's base year.

TABLE 2-3.—RECOMMENDED PPS-EXCLUDED UPDATE FACTOR FOR FISCAL YEAR 1992

Components of the Update Factor	
Components applied to all hospitals and distinct-part units:	
Fiscal year 1992 PPS-excluded market basket forecast*	4.9%
Adjustment to reflect ProPAC version of PPS-excluded market basket*	0.2
Correction for fiscal year 1990 forecast error	-1.0
Allowance for scientific and technological advancement	0.1
Average update before positive allowance adjustment	4.2
Cumulative positive allowance adjustment by year of exclusion	
1984-1988	6.6
1985-1988	6.4
1986-1988	7.0
1987-1988	4.5
1988	2.1

Note: For more information on the computation of the cumulative positive allowance adjustment, see Appendix A.

* Market basket forecast provided by the Health Care Financing Administration, Office of the Actuary, December 1980. The market basket forecast is subject to change as more current forecasts become available.

PPS-Excluded Market Basket—The update recommendation is determined primarily by projected increases in the PPS-excluded market basket. HCFA and ProPAC, however, have different versions of the market basket. HCFA's version is currently projected to increase by 4.9 percent in fiscal year 1992, while ProPAC's market basket is projected to increase by 5.1 percent. Since the update is legislated relative to a market basket that HCFA would implement, HCFA's market basket construction would likely be used to update fiscal year 1992 payments.

The Commission believes, however, that its version of the market basket best reflects changes in hospital input prices (prices hospitals pay for goods and services) and therefore should be used to update PPS-excluded payment rates. While HCFA adopted most of the Commission's 1990 recommendation on the market basket, it failed to adopt the key provision that increased the weight of internal hospital wages used in the wage component of the market basket. The Commission believes that HCFA's market basket, as currently constructed, does not adequately recognize

the unique characteristics of the hospital labor market. Therefore, ProPAC's update recommendation includes a 0.2 percentage point adjustment to reflect the difference between the two market basket forecasts. See Appendix A for more information.

Forecast Error Correction—ProPAC's update recommendation also includes a -1.0 percentage point adjustment for fiscal year 1990 market basket forecast error. A market basket forecast of 5.5 percent was used to set payments in fiscal year 1990. The actual market basket increase, however, was only 4.5 percent, creating a forecast error of -1.0

percentage points. ProPAC continues to believe the correction should be part of its update framework. The correction factor protects both hospitals and the Federal government by adjusting the base payment rates so the effects of forecast errors are not perpetuated. See Appendix A for more information on the market basket forecast error correction factor.

Scientific and Technological Advancement—The scientific and technological advancement allowance for PPS-excluded facilities reflects ProPAC's judgment about the appropriate increase in payments to implement quality-enhancing but cost-increasing technology. In order to develop an informed judgment on the allowance, the Commission examines a set of the most important new technologies and scientific developments each year. Based on this examination, an increase of 0.1 percentage points to the target rates is needed to offset the cost of new technologies.

Unlike the PPS update, a productivity adjustment is, in the Commission's view, not appropriate for PPS-excluded facilities. The productivity adjustment for PPS hospitals is based on the belief that Medicare should share in a portion of the savings generated by productivity improvements. However, Medicare automatically shares in these savings under TEFRA. Facilities with costs less than the target amount receive their costs, plus the lesser of 5 percent of the target amount or 50 percent of the difference between their target amount and costs. Therefore, part of any productivity increase is factored into reduced Medicare payments. The Commission believes that further reductions in payments for productivity improvement are not appropriate for PPS-excluded providers.

Positive Adjustment Allowances—Based on the Commission's initial analysis of PPS-excluded facilities, it appears that the earlier a provider was excluded from PPS the more financially vulnerable it has become. This is, in part, because hospitals and distinct-part units excluded before fiscal year 1989 received the same update provided to PPS hospitals. The PPS update was reduced to account for rapid growth in payments resulting from CMI increases. PPS-excluded providers, however, did not benefit from increased payments due to CMI changes.

In the Commission's view, these providers should have received the full increase in the market basket. Therefore, PPS-excluded providers that were subject to the TEFRA limits during this period should be given an additional update that equals the difference between the market basket increase and the actual update received. Further, the Secretary is required to provide for an exemption from, or an exception and adjustment to, a hospital's payments when events beyond the hospital's control affect the increase in costs during a reporting period. In general, a request for an adjustment must be made by the provider for each year in which costs exceed payments. In these cases, the Secretary is permitted to provide the most appropriate method for adjustment, including the assignment of a new base year.

The Commission believes that providing a positive allowance adjustment to providers

that were excluded in the early years will reduce the amount of future adjustments. However, providers that had new target rates computed to reflect more recent cost data should not receive the positive allowance.

The Commission's update recommendation for PPS-excluded hospitals and distinct-part units would result in an estimated 4.2 percent average update factor for fiscal year 1992. The positive allowances are estimated by comparing the actual update with the market basket.

Additional Concerns—The Commission is hopeful that the adoption of a positive allowance adjustment will reduce the need for a cumbersome exceptions process. Nevertheless, the Commission remains concerned about the lack of guidance providers have on the type of data needed to document justifiable changes in costs. In addition, the criteria used to determine whether an exception was merited have been ambiguous and inconsistent. These problems often have resulted in lengthy reviews.

Concerned over the lack of clear guidance in this area, Congress in OBRA 1990 specified the procedure and criteria for an exception or adjustment to the target rates. In addition, the grounds on which the Secretary may grant an appeal for an exception or adjustment were clarified. Further, the Administrator of HCFA was required to provide guidance to the intermediaries and hospitals to help them file complete applications.

The Commission supports this congressional mandate. ProPAC believes that clear guidance to both hospitals and fiscal intermediaries could reduce the time and resources required in the review process. It would allow providers to collect data needed for the exception process during the course of the reporting period. Further, it would eliminate inconsistency in application of the process, thereby ensuring that it is fair and equitable.

The Commission believes that data on successful applications should be systematically collected. The Medicare Cost Report data are a valuable source for assessing the financial effects of TEFRA. However, cost reports are not amended to reflect adjustments resulting from the review process. Therefore, cost report data may overstate any negative financial impact of TEFRA payments on providers.

In addition, anecdotal evidence suggests that over time, PPS-excluded providers are treating patients with more complex conditions, PPS provided hospitals with an incentive to discharge patients sooner. In the early years of PPS, average length of stay in PPS hospitals declined. To the extent these patients were admitted to excluded facilities, they may be sicker and require more intensive care than before. Additional evidence suggests that PPS-excluded providers are hiring a more highly skilled mix of employees, which is consistent with treating more complex cases. These changes in resource use and skill mix may not be reflected in payments to excluded facilities to the extent that they were not included in base year costs. However, there are no data to measure these factors.

The Commission will continue to evaluate the appropriateness of the TEFRA system. As

required by Congress, ProPAC will analyze and comment on any proposals developed by the Secretary. In addition, the Commission looks forward to working with the Secretary on developing refinements to the TEFRA system. See Appendix A for more information.

Hospital Outpatient Payment

During the 1980s, there was unprecedented growth in the delivery of care in the outpatient setting. Outpatient revenue is becoming a larger share of total hospital revenue. These revenues are an even larger proportion of total revenues for smaller hospitals and those located in rural areas. Moreover, Medicare benefit payments for outpatient hospital services increased two to three times faster than those for inpatient services. For example, between fiscal years 1983 and 1989, the average annual rate of growth in Medicare outpatient benefit payments was 15.6 percent compared with 6.1 percent for hospital inpatient benefit payments. Expenditures also increased for outpatient services provided in free-standing settings such as physicians' offices and ambulatory surgery centers. (For additional information on the growth in outpatient services refer to ProPAC's *Hospital Outpatient Services: Background Report, C-90-02*, July 1990.)

Congress has instructed both ProPAC and the Secretary of HHS to develop alternative outpatient payment systems. The Omnibus Budget Reconciliation Act of 1990 requires the Secretary to develop a proposal to replace Medicare's current payment system for hospital outpatient services with a prospective payment system. The Secretary must submit his report by September 1, 1991. ProPAC is required to analyze and comment on this report by March 1, 1992.

To respond adequately to the congressional mandate, the Commission has begun examining available data on outpatient services. In addition, ProPAC is looking at various payment policy options and is monitoring the Secretary's research. The Commission will analyze and comment on the Secretary's report in its March 1992 report. See Appendix A for more information. **Recommendation 7: Outpatient Payment Reform**

The Commission believes that a prospective payment system for outpatient services should be developed. Outpatient facility payment reform should ultimately include all providers of outpatient services (such as hospitals, physicians' offices, and free-standing ambulatory surgery centers). As required by Congress, however, the Commission recognizes that outpatient payment reform will focus initially on the hospital outpatient setting.

Medicare Part B covers an array of outpatient services furnished by many facilities, practitioners, and suppliers. Among the various payment methods used are fee schedules, prospective amounts, blended rates, reasonable costs, and reasonable charges. For most services, the physician furnishes the service directly or requests (orders) the service from a provider, supplier, or independent practitioner.

Payment to facilities generally covers only the facility or technical component of the service—supplies, materials, and nursing costs, for instance. Physicians or other practitioners usually bill for their professional service separately. Alternatively physicians, practitioners, or suppliers may bill for both the technical and professional component of the service.

The Commission believes that one major goal of outpatient payment reform is to create incentives for controlling total expenditures. Because most ambulatory care is provided outside of the hospital setting, ProPAC recommends that outpatient payment reform should eventually include all providers of ambulatory care, including physicians' offices and independent laboratories.

Although the reforms should be applied to all providers of outpatient services, the payment rate may vary among different providers. Costs may differ among similar providers (such as teaching versus non-teaching hospitals) and between different providers (such as hospitals and physicians' offices) for many reasons. These factors include differences in patient severity, teaching activities, and geographic location. The Commission believes it is desirable to adjust for some of these factors in the payment system, particularly those that represent a benefit to society and are beyond the provider's control. However, lack of available cost data for free-standing settings may complicate the determination of appropriate differences in payment rates. (See Recommendation 9.)

The payment system should also constrain costs in an appropriate manner. It should reward providers for delivering cost-effective quality care in the appropriate setting. A prospective payment method promotes incentives to deliver cost-effective care by allowing an opportunity for a profit as well as the risk of financial loss. However, the Commission realizes that various payment methods may be used during the transition to a fully prospective system.

Recommendation 8: Outpatient Facility and Physician Payment Reform

Outpatient payment reform for facility services should have incentives that are consistent with physician payment reform. Medicare financial incentives should not lead physicians or beneficiaries to inappropriately select one site of care over another.

The Commission believes that outpatient facility payment reform should contain incentives consistent with those of physician payment reform. Beginning in 1992, physicians will be paid using a resource-based fee schedule. This reform is designed to increase payment equity among physicians, constrain Medicare expenditures, protect beneficiaries' access to services, and promote predictability and administrative simplicity.

The three components of the fee schedule are physician work, practice expense, and malpractice expense. The Commission is interested primarily in the practice expense component, which includes costs like rent, salaries, equipment, and supplies. This component of the fee schedule covers services similar to those in the facility payment received by other providers of

ambulatory services. The Commission plans to evaluate the findings from the study of practice expense being conducted by the Physician Payment Review Commission (PPRC). These data will be useful in ProPAC's analysis of comparability of costs across different providers.

The Commission believes physicians and beneficiaries should not have financial incentives to favor one site of care over another, but should choose the most medically appropriate site—whether care is provided in hospitals, free-standing ambulatory care settings, or physicians' offices. Applying the same prospective payment method to all outpatient services, regardless of setting, will achieve this goal.

Recommendation 9: Data Collection and Coding Requirements

Uniform coding and billing requirements should be implemented for all providers of outpatient care. These requirements should apply to the hospital outpatient setting, physicians' offices, and free-standing ambulatory care providers. In addition, a mechanism for periodic collection of procedure-specific cost data in free-standing settings (including physicians' offices and ambulatory surgery centers) should be implemented.

To implement and maintain a prospective payment system across outpatient providers, comparable patient and financial data are needed. Under a prospective payment rate, three different comparisons must be made to determine the appropriate level of payment. These are comparisons among: (1) hospitals and other providers of ambulatory care (such as physicians' offices and free-standing ambulatory surgical centers); (2) geographic areas; and (3) hospital groups (including urban, rural, disproportionate share, and teaching.)

Currently, hospitals and free-standing providers are not required to follow the same coding and billing requirements. Physicians, suppliers, and other Part B providers, for example, were not required to report diagnoses until 1991. Further, hospitals are instructed not to use certain procedure modifiers. Finally, there are differences in how terms like principal diagnosis are defined across settings. Patients may have more complicating conditions in one setting compared with another. However, the lack of consistent coding makes it difficult to compare patient complexity across settings.

The Commission supports HCFA's efforts to establish a common working file. Coding and billing requirements should be standardized in this process. ProPAC believes that appropriate attention should be given to this issue and that the requirements should be uniform across all ambulatory care providers.

Further, cost data in free-standing settings are necessary to ensure that comparable financial incentives exist among providers. Data are not now available to compare the costs of ambulatory care across providers. Because most outpatient services are available in a variety of settings, the Commission believes that collection of non-hospital cost data is necessary to develop outpatient payment policy.

The Commission supports the research being conducted by PPRC. It is designed to collect direct cost data for certain services provided in physicians' offices. These data will allow a limited comparison of service-specific costs of care between physicians' offices and hospital outpatient settings. A more systematic and comprehensive method for collecting additional non-hospital cost data should also be developed, however. The Secretary's survey of ambulatory surgery centers could serve as a model. The data collected should provide cost information by specific services or procedures. These data should be verified using a limited audit review. In the Commission's view, an annual cost report for all providers is neither necessary nor desirable. Further, given the large number of free-standing providers, a limited but representative sample would be adequate. ProPAC is willing to work with the Secretary on developing a method for collecting these data.

Recommendation 10: Medicare Volume Performance Standards

Services provided in the hospital outpatient setting should be included in the Medicare physician Volume Performance Standards (VPSs). Certain services (such as laboratory tests and therapy services) are currently included in the VPSs when provided in free-standing settings. Other services (including ambulatory surgery and durable medical equipment) are excluded. The Commission believes that hospital-provided services should also be incorporated in the VPSs to the extent that these services are included when provided in other settings.

Several of Medicare's current outpatient payment methods (such as blended rates and fee schedules) control the price of individual services. However, these payment methods fail to control the volume of services provided. The Commission believes that a policy to control inappropriate volume is warranted.

The Volume Performance Standards, enacted in OBRA 1989, provide an approach for controlling some Medicare Part B expenditures. The primary purpose of the VPSs is to provide a collective incentive for physicians to control the rate of increase in the volume and intensity of services provided to beneficiaries. The VPSs are designed to give physicians incentives to order fewer tests and other procedures of limited value to the patient. Physicians are expected to limit the amount and types of services to those that are effective and appropriate.

Services that are commonly furnished by physicians or in physicians' offices and billed through the Part B carriers are included in the VPSs. Services provided in the hospital outpatient setting that are billed through the Part A intermediary are excluded because the intermediary does not collect service-specific data. To the extent that these services are included when provided in free-standing settings, they should also be included when provided by hospitals.

The Commission realizes that reductions in volume and intensity growth will be achieved gradually. To provide the appropriate incentives, the Secretary should collect service-specific data so that outpatient

services provided in the hospital setting can be included in the VPSs. This change would prevent physicians from attempting to circumvent the objectives of the current VPSs. For example, hospital-provided outpatient laboratory services are not included in the VPSs. Therefore, physicians have an incentive to shift these services to the hospital setting. If these services were included in the VPSs, physicians would have the same incentive to control their use as they would to control the use of laboratory tests performed in their office or an independent laboratory.

Uncompensated Care

Many Americans lack health insurance or other means to cover the cost of medical care furnished by hospitals, physicians, and other providers. ProPAC is concerned about the effects of this problem, including the increasing financial burden faced by hospitals that treat the uninsured. The amount of uncompensated care hospitals provide has increased during the 1980s, and the number and variety of hospitals affected significantly by the cost of unpaid care have grown. The Commission believes that Congress should continue to consider methods to reduce the size of the uninsured population. Congress should also consider methods to assist hospitals directly with the uncompensated care problem.

Uncompensated care, which includes both charity care and bad debt, has long been an important health issue. Many financial management experts consider uncompensated care to be an expense that should be recognized in relating payments to costs. However, the Medicare and Medicaid programs have never paid for uncompensated care directly (other than to cover losses related to Medicare cost sharing requirements), and the courts have held that the Social Security Act forbids such direct payment. Nevertheless, the cost of furnishing services without payment can have a strong adverse impact on a hospital's financial condition, ultimately affecting its continued viability. The Federal government has a direct interest in the financial viability of hospitals, for it must protect access to care for Medicare beneficiaries and those eligible for Medicaid. The burden of uncompensated care has been considered, at least indirectly, in justifying the levels of the PPS indirect medical education adjustment and the disproportionate share adjustment for both Medicare and Medicaid.

Because non-Medicare uncompensated care costs have never played a formal role in Medicare payment, the Commission previously has not devoted a significant level of resources to addressing this issue. However, the OBRA 1990 conference report pinpointed uncompensated care as one of several areas for expanded ProPAC analysis. Specifically, the conferees stated that they "intend that ProPAC would include in its analysis and recommendations, proposals for changes in policies regarding: (1) payment of inner-city hospitals, including appropriate recognition of bad debt and charity care costs. . . ."

Uncompensated care costs have risen faster than overall hospital costs, while

payments from state and local governments to offset these costs have failed to keep pace with hospital cost inflation. These two factors together have intensified the uncompensated care problem for the hospital industry. From 1980 through 1989, uncompensated care costs in PPS hospitals increased an average of 12.0 percent per year, nearly two full percentage points more than the rate at which total hospital costs have risen. Further, the portion of uncompensated care costs that is not offset by government subsidies increased even faster during this period—by 13.5 percent per year. In 1980, state and local governments covered 29 percent of all uncompensated care costs, but this proportion had dropped to 20 percent by 1989.

Uncompensated care has traditionally been associated with large, inner-city teaching hospitals and with publicly owned institutions. But over the course of the last decade, the problem has increasingly affected the entire industry. Most importantly, uncompensated care is not only an urban problem. After offsetting government operating subsidies, uncompensated care commands the same proportion of hospital resources in rural areas as in urban areas. Public hospitals continue to provide the most uncompensated care, but the proportion of all unpaid care costs net of subsidy borne by these hospitals has declined from 27 percent in 1980 to 16 percent in 1989. Similarly, the proportion provided by major teaching hospitals has decreased from 23 percent to 18 percent, and the proportion for hospitals located in the central city portion of large metropolitan areas has fallen from 71 percent to 67 percent.

While charity care and bad debt have become a significant financial burden for a greater number and variety of hospitals, the amount of uncompensated care provided by individual hospitals varies within all of the standard hospital groups. There is substantial variation in the proportion of hospital resources devoted to uncompensated care in both urban and rural areas, among regions of the country, and among specific large cities and metropolitan areas. The distribution is equally widespread among both teaching and non-teaching hospitals, and even among government hospitals. This tremendous diversity complicates the task of addressing uncompensated care in payment policy.

When patients receive hospital services for which they cannot pay, the hospital must obtain funds to cover the cost of this care from other sources. Some of the possible sources—such as direct operating subsidies from state and local governments, philanthropy, and retained earnings from non-patient services—are appropriately applied to offsetting the cost of uncompensated care. But operating subsidies are not available to most hospitals, and as noted earlier, the amount of these subsidies has been declining in inflation-adjusted terms. Non-patient care income, while increasing in recent years, has also been insufficient to cover burgeoning uncompensated care costs. Moreover, some of the hospitals providing the most uncompensated care have the least opportunity to supplement their revenue in this way.

Increasingly through the 1980s, hospitals have had to obtain funds to cover the cost of uncompensated care by raising their charges to privately insured patients. However, the hospitals with the highest uncompensated care loads, and thus the greatest need for supplementary revenue, often have few charge paying patients. Placing a heavy financial burden on these patients and their insurers is inequitable, fails to provide a reliable payment source, and risks further harming access to care for the nation's low-income population.

While the Medicare payment system was never intended to pay for charity care or bad debt, the indirect medical education and disproportionate share adjustments are commonly thought to be related to uncompensated care. The IME adjustment was designed to recognize the additional costs faced by teaching hospitals in treating Medicare patients, and the amount of payment received is determined by the hospital's ratio of interns and residents to beds. The DSH adjustment was intended to cover the effect that treating low-income patients has on average Medicare costs. Payment is based on two proxies for the hospital's total low-income patient load: the proportion of Medicaid patients and the proportion of Medicare patients receiving welfare payments under the SSI program. Over the last several years, however, these adjustments have increasingly been seen as serving broader social goals. The Commission believes that PPS payment rates do not need to be based strictly on Medicare costs. Nevertheless, the degree to which Medicare funds, which come primarily from a payroll tax, should be used for broader social purposes is limited.

ProPAC analyzed the relationship between the amount of uncompensated care hospitals provide and the payments they receive from the IME and DSH adjustments. The study found no relationship between uncompensated care costs and IME payments. The top 10 percent of PPS hospitals in terms of uncompensated care load together provide 27 percent of all unpaid care net of government subsidies, but receive only 9 percent of total IME payments. The bottom 10 percent provide less than 1 percent of all uncompensated care, and yet receive the same 9 percent share of total IME payments.

The hospitals with the highest uncompensated care rates do receive relatively high DSH payments. Those in the top 10 percent get about 20 percent of all DSH payments, compared with their 27 percent of the total uncompensated care cost load. Below the 90th percentile, however, there is only a limited relationship. The bottom 10 percent receive nearly 8 percent of all DSH payments, relative to their less than 1 percent of the uncompensated care burden. One implication of this finding is that a hospital's combined Medicaid and SSI patient load is generally a poor indicator of the amount of care it provides to non-paying patients.

While a hospital's uncompensated care burden is an important determinant of its overall financial position, the Commission believes it is not the only important factor.

ProPAC plans to analyze the impact of Medicaid payment levels in the coming year, and is conducting a major study to identify the factors associated with financial performance under PPS. The Commission intends to continue its analysis of the relative effects of Medicare, Medicaid, and other payer payments, together with uncompensated care costs, on hospital financial condition.

OTHER ISSUES CONSIDERED BY THE COMMISSION

The Commission addressed two additional issues that may be the subject of future recommendations.

Medicare Transfer Payment Policy

The Commission is concerned that current Medicare payment policy may discourage appropriate hospital transfers. Over the past year, ProPAC examined several aspects of Medicare's transfer payment policy. The analyses raised a number of concerns about the financial risk a hospital assumes when it admits a transferred patient. In particular, transfer cases were twice as likely as other patients to become outlier cases. Nevertheless, total Medicare PPS payments to hospitals that received a high proportion of transfers appear to be sufficient. The Commission is concerned, however, that the financial risk posed by transfer cases may discourage hospitals from accepting transfers. ProPAC plans to continue to examine this

issue and its relationship to outlier cases over the coming year.

The Commission is also concerned about the adequacy of the current per diem payment for the transferring hospital. Recent analysis shows that payments are significantly lower than costs for these cases. The Commission plans to examine this issue in more detail over the coming year.

In addition, ProPAC is concerned that current payment policy discourages transferring patients to their local communities for recovery. Under current transfer payment policy, hospitals that transfer patients receive a per diem payment up to the full DRG amount. The final discharging hospitals are the only hospitals that automatically receive a full DRG payment. Further, transfer cases are subject to review by Peer Review Organizations. Hospitals that treat transfer cases or other complex cases have little incentive to transfer patients to local hospitals. As a result, few Medicare patients are transferred to their local community for convalescence when this may be appropriate. This issue will also be investigated in the coming year.

Payments for Intractable Epilepsy

In 1987, the Commission addressed the adequacy of PPS payment for intractable epilepsy patients treated with intensive neurodiagnostic monitoring. ProPAC also addressed the adequacy of payments based on one surgical procedure when multiple

procedures were performed during an admission. This analysis examined two medical and one surgical DRGs.

At the time of the Commission's analysis, only three centers were found to provide specialized care for the treatment of intractable epilepsy. Operating costs exceeded payments in each of the three DRGs at these centers more than they exceeded payments at other PPS hospitals. Within these DRGs, losses were larger for patients with epilepsy than for other patients in all hospitals. A more complete analysis of this topic was not possible because of the lack of specific codes to identify patients with intractable epilepsy. These codes were implemented in fiscal year 1990.

The National Association of Epilepsy Centers' recent study of several of its members found that costs exceeded payments for patients with epilepsy in two medical DRGs. Intractable epilepsy cases that required monitoring had greater cost to payment differences and longer than average lengths of stay.

ProPAC will reexamine this issue when fiscal year 1990 data become available. The Commission believes the Secretary should also evaluate the appropriateness of PPS payment for Medicare beneficiaries with intractable epilepsy.

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The American Medical Association is a non-profit corporation organized for the purpose of promoting the science and art of medicine and the health of the people. It was organized in 1847 and has since that time been the leading organization of the medical profession in the United States. Its membership is composed of physicians, surgeons, dentists, and other medical practitioners who are interested in the advancement of their profession and the welfare of their patients. The Association's activities are directed towards the improvement of medical education, the advancement of medical research, and the promotion of public health. It also engages in various other activities, such as the publication of medical journals, the holding of medical conventions, and the representation of the medical profession in legislative and administrative matters. The Association's headquarters are located in Chicago, Illinois, and it has a large staff of employees who are engaged in its various activities. The Association's income is derived from the contributions of its members and from the sale of its publications. It is a very successful organization and has played a major role in the development of the medical profession in the United States.

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Other Services

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FEDERAL REGISTER PAGES AND DATES, JUNE

25005-25344

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List May 29, 1991

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$620.00 domestic, \$155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	\$12.00	Jan. 1, 1991
3 (1990 Compilation and Parts 100 and 101)	14.00	¹ Jan. 1, 1991
4	15.00	Jan. 1, 1991
5 Parts:		
1-699	17.00	Jan. 1, 1991
700-1199	13.00	Jan. 1, 1991
1200-End, 6 (6 Reserved)	18.00	Jan. 1, 1991
7 Parts:		
0-26	15.00	Jan. 1, 1991
27-45	12.00	Jan. 1, 1991
46-51	17.00	Jan. 1, 1991
52	24.00	Jan. 1, 1991
53-209	18.00	Jan. 1, 1991
210-299	24.00	Jan. 1, 1991
300-399	12.00	Jan. 1, 1991
400-699	20.00	Jan. 1, 1991
700-899	19.00	Jan. 1, 1991
900-999	28.00	Jan. 1, 1991
1000-1059	17.00	Jan. 1, 1991
1060-1119	12.00	Jan. 1, 1991
1120-1199	10.00	Jan. 1, 1991
1200-1499	18.00	Jan. 1, 1991
1500-1899	12.00	Jan. 1, 1991
1900-1939	11.00	Jan. 1, 1991
1940-1949	22.00	Jan. 1, 1991
1950-1999	25.00	Jan. 1, 1991
2000-End	10.00	Jan. 1, 1991
8	14.00	Jan. 1, 1991
9 Parts:		
1-199	21.00	Jan. 1, 1991
200-End	18.00	Jan. 1, 1991
10 Parts:		
0-50	21.00	Jan. 1, 1991
51-199	17.00	Jan. 1, 1991
200-399	13.00	² Jan. 1, 1987
400-499	20.00	Jan. 1, 1991
500-End	27.00	Jan. 1, 1991
11	12.00	Jan. 1, 1991
12 Parts:		
1-199	13.00	Jan. 1, 1991
200-219	12.00	Jan. 1, 1991
220-299	21.00	Jan. 1, 1991
300-499	17.00	Jan. 1, 1991
500-599	17.00	Jan. 1, 1991
600-End	19.00	Jan. 1, 1991
13	24.00	Jan. 1, 1991
14 Parts:		
*1-59	25.00	Jan. 1, 1991
60-139	21.00	Jan. 1, 1991
140-199	10.00	Jan. 1, 1991
200-1199	20.00	Jan. 1, 1991

Title	Price	Revision Date
1200-End	13.00	Jan. 1, 1991
15 Parts:		
*0-299	12.00	Jan. 1, 1991
300-799	22.00	Jan. 1, 1991
800-End	15.00	Jan. 1, 1991
16 Parts:		
0-149	5.50	Jan. 1, 1991
150-999	14.00	Jan. 1, 1991
1000-End	19.00	Jan. 1, 1991
17 Parts:		
1-199	15.00	Apr. 1, 1990
200-239	16.00	Apr. 1, 1990
240-End	23.00	Apr. 1, 1990
18 Parts:		
1-149	15.00	Apr. 1, 1991
150-279	16.00	Apr. 1, 1990
280-399	14.00	Apr. 1, 1990
400-End	9.50	Apr. 1, 1990
19 Parts:		
1-199	28.00	Apr. 1, 1990
200-End	9.50	Apr. 1, 1990
20 Parts:		
1-399	14.00	Apr. 1, 1990
400-499	25.00	Apr. 1, 1990
500-End	28.00	Apr. 1, 1990
21 Parts:		
1-99	13.00	Apr. 1, 1990
100-169	15.00	Apr. 1, 1990
170-199	17.00	Apr. 1, 1990
200-299	5.50	Apr. 1, 1990
300-499	29.00	Apr. 1, 1990
500-599	21.00	Apr. 1, 1990
600-799	8.00	Apr. 1, 1990
800-1299	18.00	Apr. 1, 1990
1300-End	9.00	Apr. 1, 1990
22 Parts:		
1-299	24.00	Apr. 1, 1990
300-End	18.00	Apr. 1, 1990
23	17.00	Apr. 1, 1990
24 Parts:		
0-199	20.00	Apr. 1, 1990
200-499	30.00	Apr. 1, 1990
500-699	13.00	Apr. 1, 1990
700-1699	24.00	Apr. 1, 1990
1700-End	13.00	⁴ Apr. 1, 1990
25	25.00	Apr. 1, 1990
26 Parts:		
§§ 1.0-1-1.60	15.00	Apr. 1, 1990
§§ 1.61-1.169	28.00	Apr. 1, 1990
§§ 1.170-1.300	18.00	Apr. 1, 1990
§§ 1.301-1.400	17.00	Apr. 1, 1990
§§ 1.401-1.500	29.00	Apr. 1, 1990
§§ 1.501-1.640	16.00	³ Apr. 1, 1989
§§ 1.641-1.850	19.00	⁴ Apr. 1, 1990
§§ 1.851-1.907	20.00	Apr. 1, 1990
§§ 1.908-1.1000	22.00	Apr. 1, 1990
§§ 1.1001-1.1400	18.00	⁴ Apr. 1, 1990
§§ 1.1401-End	24.00	Apr. 1, 1990
2-29	21.00	Apr. 1, 1990
30-39	15.00	Apr. 1, 1990
40-49	13.00	³ Apr. 1, 1989
50-299	16.00	³ Apr. 1, 1989
300-499	17.00	Apr. 1, 1990
500-599	6.00	⁴ Apr. 1, 1990
600-End	6.50	Apr. 1, 1990
27 Parts:		
1-199	24.00	Apr. 1, 1990
200-End	14.00	Apr. 1, 1990
28	28.00	July 1, 1990

Title	Price	Revision Date	Title	Price	Revision Date
29 Parts:			19-100.....	13.00	⁷ July 1, 1984
0-99.....	18.00	July 1, 1990	1-100.....	8.50	July 1, 1990
100-499.....	8.00	July 1, 1990	101.....	24.00	July 1, 1990
500-899.....	26.00	July 1, 1990	102-200.....	11.00	July 1, 1990
900-1899.....	12.00	July 1, 1990	201-End.....	13.00	July 1, 1990
1900-1910 (§§ 1901.1 to 1910.999).....	24.00	July 1, 1990	42 Parts:		
1910 (§§ 1910.1000 to end).....	14.00	July 1, 1990	1-60.....	16.00	Oct. 1, 1990
1911-1925.....	9.00	⁶ July 1, 1989	61-399.....	5.50	Oct. 1, 1990
1926.....	12.00	July 1, 1990	400-429.....	21.00	Oct. 1, 1990
1927-End.....	25.00	July 1, 1990	430-End.....	25.00	Oct. 1, 1990
30 Parts:			43 Parts:		
0-199.....	22.00	July 1, 1990	1-999.....	19.00	Oct. 1, 1990
200-699.....	14.00	July 1, 1990	1000-3999.....	26.00	Oct. 1, 1990
700-End.....	21.00	July 1, 1990	4000-End.....	12.00	Oct. 1, 1990
31 Parts:			44.....	23.00	Oct. 1, 1990
0-199.....	15.00	July 1, 1990	45 Parts:		
200-End.....	19.00	July 1, 1990	1-199.....	17.00	Oct. 1, 1990
32 Parts:			200-499.....	12.00	Oct. 1, 1990
1-39, Vol. I.....	15.00	⁶ July 1, 1984	500-1199.....	26.00	Oct. 1, 1990
1-39, Vol. II.....	19.00	⁶ July 1, 1984	1200-End.....	18.00	Oct. 1, 1990
1-39, Vol. III.....	18.00	⁶ July 1, 1984	46 Parts:		
1-189.....	24.00	July 1, 1990	1-40.....	14.00	Oct. 1, 1990
190-399.....	28.00	July 1, 1990	41-69.....	14.00	Oct. 1, 1990
400-629.....	24.00	July 1, 1990	70-89.....	8.00	Oct. 1, 1990
630-699.....	13.00	⁶ July 1, 1989	90-139.....	12.00	Oct. 1, 1990
700-799.....	17.00	July 1, 1990	140-155.....	13.00	Oct. 1, 1990
800-End.....	19.00	July 1, 1990	156-165.....	14.00	Oct. 1, 1990
33 Parts:			166-199.....	14.00	Oct. 1, 1990
1-124.....	16.00	July 1, 1990	200-499.....	20.00	Oct. 1, 1990
125-199.....	18.00	July 1, 1990	500-End.....	11.00	Oct. 1, 1990
200-End.....	20.00	July 1, 1990	47 Parts:		
34 Parts:			0-19.....	19.00	Oct. 1, 1990
1-299.....	23.00	July 1, 1990	20-39.....	18.00	Oct. 1, 1990
300-399.....	14.00	July 1, 1990	40-69.....	9.50	Oct. 1, 1990
400-End.....	27.00	July 1, 1990	70-79.....	18.00	Oct. 1, 1990
35.....	10.00	July 1, 1990	80-End.....	20.00	Oct. 1, 1990
36 Parts:			48 Chapters:		
1-199.....	12.00	July 1, 1990	1 (Parts 1-51).....	30.00	Oct. 1, 1990
200-End.....	25.00	July 1, 1990	1 (Parts 52-99).....	19.00	Oct. 1, 1990
37.....	15.00	July 1, 1990	2 (Parts 201-251).....	19.00	Oct. 1, 1990
38 Parts:			2 (Parts 252-299).....	15.00	Oct. 1, 1990
0-17.....	24.00	July 1, 1990	3-6.....	19.00	Oct. 1, 1990
18-End.....	21.00	July 1, 1990	7-14.....	26.00	Oct. 1, 1990
39.....	14.00	July 1, 1990	15-End.....	29.00	Oct. 1, 1990
40 Parts:			49 Parts:		
1-51.....	27.00	July 1, 1990	1-99.....	14.00	Oct. 1, 1990
52.....	28.00	July 1, 1990	100-177.....	27.00	Oct. 1, 1990
53-60.....	31.00	July 1, 1990	178-199.....	22.00	Oct. 1, 1990
61-80.....	13.00	July 1, 1990	200-399.....	21.00	Oct. 1, 1990
81-85.....	11.00	July 1, 1990	400-999.....	26.00	Oct. 1, 1990
86-99.....	26.00	July 1, 1990	1000-1199.....	17.00	Oct. 1, 1990
100-149.....	27.00	July 1, 1990	1200-End.....	19.00	Oct. 1, 1990
150-189.....	23.00	July 1, 1990	50 Parts:		
190-259.....	13.00	July 1, 1990	1-199.....	20.00	Oct. 1, 1990
260-299.....	22.00	July 1, 1990	200-599.....	16.00	Oct. 1, 1990
300-399.....	11.00	July 1, 1990	600-End.....	15.00	Oct. 1, 1990
400-424.....	23.00	July 1, 1990	CFR Index and Findings Aids.....	30.00	Jan. 1, 1991
425-699.....	23.00	⁶ July 1, 1989	Complete 1991 CFR set.....	620.00	1991
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1, 1-11 to Appendix, 2 (2 Reserved).....	13.00	⁷ July 1, 1984	Subscription (mailed as issued).....	188.00	1991
3-6.....	14.00	⁷ July 1, 1984			
7.....	6.00	⁷ July 1, 1984			
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18, Vol. II, Parts 6-19.....	13.00	⁷ July 1, 1984			
18, Vol. III, Parts 20-52.....	13.00	⁷ July 1, 1984			

Title	Price	Revision Date
Individual copies	2.00	1991

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

³ No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 31, 1990. The CFR volume issued April 1, 1989, should be retained.

⁴ No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

⁵ No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1990. The CFR volume issued July 1, 1989, should be retained.

⁶ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁷ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 1991

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
June 3	June 18	July 3	July 18	August 2	September 3
June 4	June 19	July 5	July 19	August 5	September 3
June 5	June 20	July 5	July 22	August 5	September 3
June 6	June 21	July 8	July 22	August 5	September 4
June 7	June 24	July 8	July 22	August 6	September 5
June 10	June 25	July 10	July 25	August 9	September 9
June 11	June 26	July 11	July 26	August 12	September 9
June 12	June 27	July 12	July 29	August 12	September 10
June 13	June 28	July 15	July 29	August 12	September 11
June 14	July 1	July 15	July 29	August 13	September 12
June 17	July 2	July 17	August 1	August 16	September 16
June 18	July 3	July 18	August 2	August 19	September 16
June 19	July 5	July 19	August 5	August 19	September 17
June 20	July 5	July 22	August 5	August 19	September 18
June 21	July 8	July 22	August 5	August 20	September 19
June 24	July 9	July 24	August 8	August 23	September 23
June 25	July 10	July 25	August 9	August 26	September 23
June 26	July 11	July 26	August 12	August 26	September 24
June 27	July 12	July 29	August 12	August 26	September 25
June 28	July 15	July 29	August 12	August 27	September 26

